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TRANSCRIPT OF GOVERNOR'S ADVISORY BLUE RIBBON PANEL

Phoenix, Arizona
February 19, 2004
9:06 a.m.

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REPORTER'S TRANSCRIPT OF PROCEEDINGS was
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2 taken on February 19, 2004, commencing at 9:06 a.m., at
3 the Governor's Office, 1700 East Washington, Phoenix,
4 Arizona, before MARCELLA L. DAUGHTRY, a Certified Court
5 Reporter in and for the County of Maricopa, State of
6 Arizona.

7
8 PANEL MEMBERS:

9 Dennis Burke, Co-Chair
10 Herb Guenther, Co-Chair
11 Grant Woods, Co-Chair
12 Chase Rivel and
13 Mike Branham
14 Leesa Morrison
15 John Cohen (Telephonically)

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1 MR. BURKE: Good morning. Why don't we go
2 ahead and get started here. My name is Dennis Burke.
3 I'm the chief of staff from Governor Napolitano's
4 office and co-chair along with Grant Woods and everyone

5 else on this ad hoc advisory panel on the incident at
6 Lewis on January 18th. This is the hearing -- fourth
7 hearing that we've conducted. And I believe
8 Mr. Cohen -- John, are you on the line?

9 MR. COHEN: Yes, sir, Mr. Chairman.

10 MR. BURKE: We -- Sheriff Vanderpool from
11 Pinal County was unable to attend this morning. I got
12 a phone call from him last night. He is attending a
13 funeral this morning actually of the former deputy
14 warden at the Department of Corrections. But we have
15 transcripts from all the prior hearings, and we will
16 have a transcript of today's hearing, and we've
17 provided those e-mail to our members. If you have not
18 received them, let me know, and I think Herb will also
19 try and set those up on a web page, also.

20 MR. GUENTHER: I'm still working with Jeff
21 on that.

22 MR. BURKE: Okay. This morning, we are
23 going to hear from a panel of professionals who were
24 involved in the tactical intelligence and negotiating
25 phase of the incident. From the FBI, Ray Churay; from

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1 the Department of Corrections, Jeff Hood; from the
2 Department of Public Safety, Colonel Norm Beasley; and
3 from the Maricopa County Sheriff's Office, Jesse
4 Locksa. And I want to thank all four gentlemen for
5 being here this morning to provide some background and
6 also allow us to question them.

7 I believe later today, we will also hear
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8 from Warden Gaspar from the Lewis facility. And I
9 think I might be in your PowerPoint way here, Colonel,
10 so I will -- I will move out of the way when you begin
11 your presentation.

12 But before we do, Grant or Herb, any
13 comments before we start today?

14 MR. WOODS: No.

15 MR. GUENTHER: Ready to go.

16 MR. BURKE: Ready to go, gentlemen.

17 MR. HOOD: Thank you. Good morning. My
18 name is Jeff Hood. I'm the division director for
19 operations for the Arizona Department of Corrections,
20 and during the Lewis incident, I functioned in a shared
21 capacity with others as the on-site incident and
22 advisor of on-scene activities throughout the 15 days.

23 The gentlemen here with me this morning
24 were all instrumental throughout the incident. On the
25 team, there was approximately a total of 16 outside

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1 agencies from the Department of Corrections. Resources
2 responded and provided various resources and assistance
3 throughout the incident from tactical resources to
4 negotiation resources, as well as intelligence
5 functions and other supporters as well. So it was a --
6 truly a unique incident, not only for its duration, but
7 for the volume level and intricacy of the support from
8 multi-jurisdictional agencies represented from local
9 municipalities, cities and towns throughout the state,
10 as well as county, state and federal resources.

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11 As you will hear today, the situation, as
12 you are beginning to know, presented some very unique
13 tactical negotiating and intel challenges throughout,
14 and the data we are about to present to you this
15 morning will give you a sense of the efforts that were
16 made from a tactical, negotiating and intel
17 perspective.

18 So with that, I'll turn it over to Colonel
19 Beasley to begin the PowerPoint presentation.

20 MR. BEASLEY: What we are going to present
21 today is really from the law enforcement perspective,
22 what the various law enforcement agencies did during
23 the course. We are sort of going to team talk this.
24 Deputy Chief Locksa and Special Agent ASAC, Ray Churay,
25 we were the three lead law enforcement senior

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1 commanders during the 15 days, and we are just going to
2 walk you through basically what the law enforcement
3 role was during this incident.

4 The initial response to Lewis occurred very
5 early in the morning, almost instantaneous
6 to DOC's request for assistance. The initial
7 responding agencies consisted of the Department of
8 Public Safety, the Maricopa County Sheriff's Office and
9 the Buckeye Police Department. The DPS response
10 included members of our highway patrol division; our
11 field units; one of our civil disorder teams; our
12 special operations, which is our tactical negotiations,
13 canine and EOD, technical surveillance people. These

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14 are our technical surveillance specialists that are
15 responsible for electronic monitoring and video
16 surveillance. We had technical support people there
17 that provided behind-the-scenes telephone and computer
18 support. We had air rescue, and we had both
19 supervisory and senior command personnel also deployed.

20 During the course of this incident, we had
21 over 230 DPS officers deployed with a core element
22 during the incident of about 75 detectives and officers
23 and surveillance specialists.

24 Chief of Maricopa County, how many did they
25 have?

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1 MR. LOCKSA: We had over a hundred respond,
2 which included our field force personnel, our tactical
3 people and our people from -- the detectives from the
4 field operations.

5 MR. CHURAY: The FBI had approximately a
6 hundred people there over the course of the event. We
7 had negotiators, tactical personnel -- tactical
8 personnel and management.

9 MR. BEASLEY: Basically what the initial
10 role of both DPS, Maricopa County field units were was
11 to establish a perimeter around the prison in
12 conjunction with the Department of Corrections. We
13 also almost immediately established a 3-mile-5,000-foot
14 elevation no-fly zone around the prison.

15 The initial incident command consisted of
16 Corrections, DPS, Maricopa County Sheriff's, and on day

17 four, the Federal Bureau of Investigation. And that's
18 basically what the chart looked like. The lead agency
19 was the Department of Corrections, supported by DPS,
20 FBI and Maricopa County, and that is sort of a chart of
21 the incident command system as it existed during the
22 incident.

23 The tower basically was, I think as we are
24 all familiar with, a very formidable building, and it
25 was almost 20 feet high, had three stories, an 8-inch

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1 reinforced concrete block. It had two-inch Lexan
2 multi-layered safety glass that were tilted out at a
3 27-degree angle.

4 As we effectually came to know during the
5 course of the 15 days, Morey's rule, and that was that
6 nothing in the Lewis prison was built the same as
7 Morey. We would do a lot of testing, a lot of
8 practicing on like towers from the two other units, and
9 when we would get to Morey, it was built completely
10 different, even to the point that we had the architects
11 on-site and actually had them deploy with our people.
12 And they were looking at their plans, what it should
13 have been, and, in fact, the architect said several
14 times, "This is not like how I drew it."

15 The tower fortifications. Inside the
16 tower, the inmates used materials inside to block
17 doors. The stairwell door that led from the first
18 floor to the second floor -- and that would become
19 important later on in our presentation -- was locked

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20 and the -- chained with handcuffs. The windows were
21 covered with various material from inside the tower to
22 include ceiling tiles, plastic bags, and later in the
23 incident, Inmate Wassenaar took the tarp covering from
24 the roof and used that to block the windows. He also
25 removed a light fixture -- actually, two light fixtures

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1 from the ceiling and placed them in the windows, both
2 on the A and B side, which then allowed the inmates to
3 light up the stairway and the spline area and really
4 took away some of our nighttime operations from us.

5 The inmates, we all know about the inmates,
6 who they were. Our view from the law enforcement
7 perspective, how we viewed these inmates, A, they were
8 dangerous criminals. Two, they were used to
9 confinement. These are people that were long-term
10 prisoners. They were used to being in a confined
11 environment; therefore, having a three-story tower
12 really was almost like a condo with room service for
13 them. They also did not -- were not out at night, and
14 so they feared the night, in essence. As we worked
15 through this, they did nothing during the evening
16 hours.

17 Our vision from day one is that we had to
18 impact that environment to enhance both our negotiation
19 strategy, and should we have to do a tactical
20 resolution, enhance our ability to tactically resolve
21 this situation.

22 The weapons inside the tower. The inmates
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23 were armed with an AR-15 with 20 rounds of ammunition.
24 They had a 12-gauge Remington 870 shotgun with about 10
25 rounds of ammunition. They had a 37-millimeter

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1 chemical agent gas gun. They also had less lethal and
2 riot-control agent projectiles. They had grenades,
3 stinger grenades, and they had different diversion
4 devices.

5 How the incident command was set up and
6 practiced is we had basically three operational
7 centers. We had a tactical operations center, we had a
8 negotiations center and we had an executive command
9 center. During the course of the 15 days, there were
10 regularly scheduled briefings that occurred that began
11 at one hour; it then went to two hours; it then went to
12 three hours, depending on the situation on the ground
13 at that particular time. There was a daily scheduled
14 debriefing by speakerphone with the -- with the
15 director of the Department of Corrections and the
16 Governor, and then the director of Corrections came to
17 the site on numerous occasions and discussed strategies
18 and activities via speakerphone multiple times
19 throughout the day.

20 Our tactical operations center for law
21 enforcement basically directed all tactical, technical,
22 surveillance intelligence and law enforcement
23 logistical support operations, and the negotiations end
24 remained under the control of the Department of
25 Corrections.

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1 Basically -- Mr. Hood talked about there
2 were over 16 law enforcement agencies that provided
3 support and assistance during the course of this
4 incident. Our communications systems -- again, we
5 talked about interoperability. We had four different
6 radio nets, but because we had a central coordination
7 center, that really never became an issue.

8 DOC had a nonencrypted radio net with
9 multiple frequencies for prison operations. DPS had
10 special surveillance and sniper frequencies, encrypted
11 radios, plus a nonencrypted general tactical frequency.
12 Maricopa County Sheriff had a nonencrypted tactical
13 frequency, and the FBI had an encrypted tactical
14 frequency.

15 Early on, we deployed the FBI encrypted
16 radios to our sniper and observer positions, and again,
17 all of our communications throughout this incident were
18 coordinated through our tactical operations center.

19 Negotiations -- staffing negotiations was
20 staffed by detectives from the Department of Public
21 Safety, the Arizona Department of Corrections, the
22 Phoenix Police Department, Maricopa County Sheriff's
23 Office, the Tempe Police Department and the Federal
24 Bureau of Investigation. We also had two negotiation
25 advisors from the FBI behavioral science unit in

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1 Quantico, and we had access to a private psychologist.

2 A total of 30 negotiators were deployed
3 during this incident, 10 of which actually conducted
4 phone interviews or -- not phone interviews, but phone
5 negotiations with the inmates. Our negotiations were
6 conducted over land-line telephones through the
7 Department of Corrections, radio, and the inmates had
8 about five DOC radios in the tower, so some of the
9 negotiations were conducted over that DOC radio.

10 During the course, we attempted to
11 introduce what we call a hostage phone. It's specially
12 designed through some equipment to have very specific
13 sensitive communication between the hostage taker and
14 the negotiators.

15 We also deployed a Norstan unit, which is
16 basically the same thing, but from outside the --
17 outside the building. During the course of the
18 incident, the inmate was able to take the Norstan unit
19 up to the roof of the tower and destroy it.

20 Basically, the negotiation strategy was to
21 always get something in return for any demands, via
22 ammunition, via a weapon and to have a hostage welfare
23 check. Again, negotiations generally occurred during
24 the daytime hours, and again, it goes back to the
25 inmates' psychology. They were not out at night. They

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1 were not comfortable doing things at night, so their
2 whole life really revolved around daytime operations.

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3 Wassenaar was the primary person that our
4 negotiators talked to, and he would tell them -- you
5 know, 6:30 would come around and he would say, "Hey,
6 I'm offline for the evening," shut the hatch up, and
7 then negotiations would then pick up the next morning.

8 Depending on what was going on, some of the
9 negotiations did occur late into the evening as the
10 incident progressed. Some of the demands -- and I
11 think you all have heard that, but this is -- basically
12 we talked about food; we talked about a handcuff key,
13 the Interstate Compact transfer. Wassenaar wanted to
14 talk to his sister and family. He did also want to
15 talk to his mother, but that was denied. Coy wanted to
16 talk to his uncle and wife and talked -- talking to his
17 wife was also denied. They wanted to be transferred to
18 the U. S. Bureau of Prison's custody. They were very
19 concerned -- Wassenaar was, about his personal hygiene,
20 and a lot of items went into the tower along those
21 lines for both the inmates and the officer hostages.

22 The inmates did not want to be confined in
23 any state local jail when he was returned to trial. He
24 wanted clean clothes. He wanted the water on. He
25 wanted the power back on, and he wanted media contact.

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1 It started out with he wanted a TV interview, and then
2 it ultimately resulted in a taped radio interview, and
3 he wanted cigarettes.

4 Again, our strategy was to see the hostages
5 daily, so that, one, we could evaluate their condition

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6 and to send a message back to them that they were not
7 forgotten. We did a medical screening when possible
8 using DPS paramedics and DOC doctors and Federal Bureau
9 of Investigation support doctors.

10 Okay. The first hostage was released,
11 Jason Auch, on day seven. Those issues that led to his
12 release included food items, some -- basically store
13 items, normal food items: deli meat, cigarettes, some
14 colas and turn the water back on. The water had been
15 turned off on day three, and he wanted the water back
16 on. When these demands were met, he ultimately
17 released Jason Auch.

18 What we knew, then, from the debriefing of
19 Officer Auch, was we knew how many -- 223 rounds were
20 left. We knew how many rounds were left in the
21 shotgun. We knew where the hostages were being held.
22 We knew fortifications, what type of fortifications the
23 inmates were using. Most importantly, as we get
24 further, we knew that the -- now it's confirmed what we
25 thought, that the stairwell door was an access and they

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1 closed it every night. And by "access," I don't know
2 if they explained that to you. That meant there was
3 just a push-button operation. You did not need a key.
4 It was controlled from the door well -- the stairwell
5 itself.

6 Medical -- we did a medical evaluation on
7 day 12 by DPS paramedics, and his assessment was that
8 Officer (name redacted) was seriously dehydrated, had some other

9 potentially life-threatening conditions, and he gave a
10 time frame of critical mass between 24 and 72 hours.

11 At this time, we had very serious concerns,
12 and we seriously considered tactically resolving this
13 situation. A second doctor, again -- and I might say
14 on day 12, the on-site DOC doctor pretty much concurred
15 with the paramedics assessment. He listened to the
16 tapes. A second doctor reviewed the tapes, talked to
17 the paramedics, and he basically said it was really not
18 as bad, but again, gave that time frame of 48 to 72
19 hours. We had a third doctor on day 13 express concern
20 about Officer (name redacted)'s medical condition and gave the
21 negotiators in command some critical points to look for
22 in further evaluations of her. But basically all of
23 the doctors agreed it is extremely hard to do a
24 telephone examination without having the patient right
25 there.

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1 We used third-party negotiators, and the
2 Interstate Compact really was on the table very early
3 in the process, but Wassenaar didn't believe it. He
4 was sort of a jailhouse lawyer. He believed that if
5 anything was done under duress at the end, then it was
6 not binding.

7 The negotiators' strategy was to try to use
8 third-party relatives, people that Wassenaar trusted,
9 to convince him that this, in fact, was the real deal.
10 They began with a tape recording of the sister. The
11 DOC flew the inmate -- inmate's relatives to Arizona.

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12 The sister did have several conversations, but really
13 her impact on the final closure was very minimal, and
14 both the sister and Wassenaar's relatives left to go
15 back to Michigan. Of course, the uncle was also flown
16 out here, and we officially called him Uncle Bob.
17 Uncle Bob was effective in dealing, not only with Coy,
18 but also with Wassenaar.

19 Also, at that time, we -- through DOC, the
20 directors set this up -- was a radio taped interview
21 with KTAR. Wassenaar also wanted a TV interview, and
22 the TV station had agreed to do that but it was never
23 implemented.

24 Again, what did we do from a tactical
25 perspective? We had -- on the ground from day one, we

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1 had a hostage rescue component. Our hostage rescue
2 teams, both from DPS, Maricopa County Sheriff's and the
3 Federal Bureau of Investigation, plus the supporting
4 agencies practiced daily. We practiced on the like
5 towers in the yard. We also built a mock tower behind
6 our main assault staging location. So day in and day
7 out, our hostage rescue components practiced a tactical
8 resolution should that become necessary.

9 All of our deployed snipers fired at like
10 window glass. Corrections, again, very, very good.
11 They went out; they built frames at the exact angle
12 that the windows were in the tower, and that allowed
13 our sniper personnel, both from the various law
14 enforcement agencies and the Department of Corrections,

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15 to go out and actually shoot through the glass they may
16 have to shoot through.

17 We had tower floor plans and photos of both
18 the inmates and hostages posted at the staging
19 locations, so every minute of the day our HRT
20 components could look, become very, very familiar with
21 the layout of the tower, and most importantly, be able
22 to identify in a millisecond both hostages and inmates.

23 We -- from the tactical perspective, we
24 deployed sniper and observer teams to cover the tower.
25 We did maintain our hostage rescue capability

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1 throughout the incident. We used our tactical
2 components to deliver food and other items to the
3 tower. Our tactical components placed electronic
4 surveillance devices in and on the tower. We prepared
5 approaches to the tower for a possible assault, should
6 we have to do that, and we were -- tactical units were
7 involved in psychological operations during the evening
8 hours.

9 Again, our sniper observer teams cover the
10 tower 24/7, and they were authorized to exercise deadly
11 force options under our standing warning orders.
12 Sniper observer teams also observed and reported to
13 tactical command any movement that they saw in the
14 windows, and that allowed us to chart the various
15 locations where our sniper observer teams saw movement,
16 again, to try to determine consistency.

17 That's just a slide of where we had

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18 deployed sniper teams. All around, basically had a 360
19 coverage of the tower, both first floor and second
20 floor.

21 Again, this was our use of force orders.
22 Again, if we saw both inmates, they were positively
23 identified and observed at the same time, example, one
24 on the roof and one in the window, snipers were
25 authorized to tactically resolve the situation. If we

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1 saw an inmate on the roof with a hostage or as later --
2 or hostages early on and he was -- and they were armed
3 with a firearm and they were threatening those
4 hostages, they were authorized to tactically resolve
5 it. If we saw the inmate on the roof threatening with
6 a weapon, threatening our officers, they were
7 authorized to tactically resolve it. And if the
8 hostage escaped, if there was a hostage initiated
9 action where the hostages tried to escape to the roof,
10 they were authorized to exercise the deadly force
11 option.

12 If any of those occurred, that would precipitate an
13 immediate tactical assault on the tower.

14 Again, we want to clear this up. They
15 operated under established use of force options.
16 Snipers did not have to ask permission from command to
17 exercise those options. That is how we deploy, and at
18 no time during this incident were any inmates observed
19 and clearly identified at the same time. Had that
20 happened, deadly force options would have been

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21 exerci sed.

22 Again, our hostage -- hostage rescue
23 components were staged in both the A and the B
24 buildings. Daytime hostage rescue operations would be
25 conducted by DPS, supported by the FBI, Glendale Police

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1 Department and the Tucson Police Department. Nighttime
2 hostage rescue operations would be launched by the
3 Maricopa County Sheriff's Office, assisted by the
4 particular supporting law enforcement agency on duty
5 that evening. That just gives you an example of the A
6 and B buildings where our assaults would come from.

7 We also had a rapid response assault plan
8 for both shifts; that is, if something happened within
9 the tower, the violence potential escalated, we were
10 prepared to then make an immediate resolve, both on the
11 day shift and on the night shift. And both shifts had
12 a surrender plan in place. If during the course of
13 their shift the inmates opted to surrender, we had a
14 plan in place to deal with that.

15 Again, we had a very robust intelligence
16 operations staffed by both Department of Corrections
17 and DPS, Maricopa County intelligence personnel. We
18 looked at inmate backgrounds and profiles. DOC
19 interviewed noninvolved inmates to try to get as much
20 information on the two in the tower as we could. We
21 had access to the criminal investigation interviews,
22 again, trying to build our both negotiation and
23 tactical strategies. DOC monitored outgoing calls from

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24 other inmates to see if any information was being
25 disseminated. They looked at inmate mail, both the two

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1 in the tower and in other inmates in DOC, and
2 intelligence personnel monitored our electronic
3 surveillance devices.

4 We sent intelligence detectives out into
5 the field. They briefed multiple times a day our
6 assault teams as to the progress of the incident. They
7 also brought back information from our teams that were
8 deployed around the tower, provided that to commands so
9 that we could continuously update our tactical
10 strategies.

11 We worked very closely -- and I can't say
12 enough about the facilities management of DOC. They
13 almost became a subarm of law enforcement. Anything
14 that we wanted done, they did. We needed something
15 built, they did. They came up with, again, pretty
16 creative strategies as it related to our ability to
17 interdict devices into the tower and place video
18 surveillance systems.

19 Basically, we had an on-site tech
20 surveillance unit with DPS, the County, FBI, the Rocky
21 Mountain Information Network and the Mesa Police
22 Department. Again, they built electronic devices on
23 scene. They built video surveillance systems on scene
24 that were ultimately deployed in the ultimate
25 resolution of this incident.

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2 all of the windows in the tower.

3 We also -- technical surveillance also
4 supported the negotiations by establishing a -- phone
5 recording capabilities. They also installed the
6 speakers in both the negotiation command center, which
7 was separate from the actual negotiation room, and the
8 Department of Corrections' command center so that DOC
9 and senior command could actually listen to the
10 negotiations in real time as they were ongoing.

11 We used a surveillance aircraft with floor
12 capabilities to see if from air, shooting down, that we
13 could get any kind of movement or anything, and as much
14 the same as our ground efforts, the aircraft efforts
15 were also unsuccessful.

16 Wassenaar had a daily security check. In
17 fact, he called it that. He said, "You know, I'm going
18 to check -- do my security check, check my perimeter."
19 And this morning ritual occurred between 8:00 and
20 10:00 a.m. What he would look for is any electronic
21 surveillance devices that we had put on there during
22 the evening hours and any changes around the tower.
23 And he, in fact, did find several devices, and he would
24 then fish them up and destroy them. But he would lean
25 over -- he would spend quite a bit of time. He would

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1 lean over the tower, look all around to make sure that
2 he did not have any surprises.

3 Again, operation for our deliveries --
4 deliveries were initially made using the DPS and

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5 Maricopa County robot. We initially delivered items
6 through the pass-through tray -- and I think you are
7 all familiar with that -- but after so many times, the
8 pass-through tray was disabled, so our later deliveries
9 were made to the tower at the ground level, and the
10 inmate had to pull the items to the roof.

11 We also began to use tactical teams to make
12 the food deliveries, and in doing so, we were able to
13 place electronic devices on the tower. Our teams
14 gained additional intelligence on the tower
15 fortifications. We practiced our movements to the
16 tower. We tested the inmate views of what they could
17 see out of the tower, and we opened various gates to
18 prepare for a possible tactical resolution.

19 Again, on day 13, the law enforcement
20 command met with the director of corrections and her
21 senior staff, and we made a recommendation that the
22 director approve that all law enforcement operations be
23 placed under the law enforcement command; that included
24 negotiations. We asked that a written psychological
25 operations plan be developed to guide operations by day

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1 so that we could enhance both the negotiations strategy
2 and our tactical resolution strategy. Also, at that
3 time, there was a change in our negotiations strategy
4 and our negotiation advisors. The FBI brought in a new
5 advisor, and we felt at this time, we did need to make
6 a change in our strategy. But that's basically the
7 chain of command on day 13 for law enforcement.

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8 Again, we were split into two shifts, day
9 and night. I was the incident commander law
10 enforcement on the day shift assisted by ASAC, Ray
11 Churay, and on the night shift, Deputy Chief Locksa
12 from the Maricopa County Sheriff's Office handled,
13 supported by his supporting law enforcement agencies,
14 in the evening.

15 Again, on day 13, again, we met with
16 negotiations of tactical, and, in fact, did develop a
17 7-day psyc-op plan, and again, our goal was to increase
18 both the psychological and physical pressure, thereby
19 impacting the inmates' environment and their mental
20 state.

21 Friday, day 13, we used lighting, and I
22 think all of you saw that feed. Basically, it was a
23 tit for tat. He used his lights to light up our -- the
24 ground around the tower. We used our lights back at
25 him to light up the tower, again, putting psychological

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1 pressure on him. On Saturday -- day 14 was our
2 strategy that -- to shut the power off and open the B
3 side gates. We knew in watching him that the
4 necessities in life were very important to him, and our
5 goal was to take away those necessities.

6 We knew that the UPS system within the
7 tower would run the electric for six to eight hours,
8 and we knew that with a loss of power -- and that is
9 why that stairwell door is so important -- we knew with
10 the loss of power if they had that door closed, once

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11 the power was gone, they were trapped, and that would
12 deny access to the first floor, basically water and
13 bathroom facilities.

14 Our goal with that was one, we wanted to
15 deny space. We wanted to compact them in as small a
16 space as possible. Ideally, we hoped to trap the
17 inmates on the first floor and the hostage on the
18 second floor. We also wanted to, if possible, separate
19 inmates from firearms. The real goal was to increase
20 that psychological pressure so that we could enhance
21 the negotiation process, and it would also enhance our
22 tactical advantage by having them compressed in at
23 least one floor.

24 Again, the end game really began on day 14.
25 Our tactical officers delivered food. In the process,

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1 they opened all of their remaining B side gates.
2 Wassenaar, during the course of the day, realized that
3 something was wrong with the power, and then he
4 observed the gates open as the tactical officers
5 retreated to the -- back to their building. He became
6 very irate. It was at that time that he came out of
7 the tower roof carrying a shotgun, but again, in a
8 nonthreatening manner. Again, our snipers used the
9 force policy, exercised extreme discipline. He never
10 was a threat to them, and again, had he been a threat,
11 they would have taken the necessary deadly force
12 option.

13 Again, what happened on day 15, exactly how
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14 we envisioned it, he was trapped. He was denied the
15 use of the bathroom and water. We saw an attitude
16 change. He wanted the power back on. He talked of
17 surrender, and the key for us was, he wanted to talk to
18 a previous police negotiator who he had established a
19 rapport with.

20 And his demands on the final day were he
21 wanted clean clothes. He wanted a steak meal. He
22 wanted some beer, ultimately resulted in two cans of
23 beer, cigarettes. The key thing, though, he wanted
24 that power back on. He wanted to talk to his sister
25 again. And Coy wanted to talk to his uncle in view of

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1 the U. S. Bureau of Prison's vehicles. He wanted to see
2 his uncle standing with U. S. BOP vehicles.

3 Our command decision -- and I have nothing
4 but praise for the director. She held firm. We told
5 her we did not want to meet these demands immediately;
6 we wanted to keep that pressure on as long as possible
7 so that we were sure that this -- that this was a deal.
8 We -- during the course of this, whenever Wassenaar
9 promised something, he delivered, and what we told the
10 negotiators -- or if you can get a promise that
11 Wassenaar comes out today, not tomorrow, not three days
12 from now, comes out today by 6:30, we'll turn the power
13 back on, and that's exactly what happened. Wassenaar
14 agreed to that. He viewed Coy's uncle standing with
15 the BOP figure and the van, and that pretty much is it.

16 Sort of sidebar, when we turned the power

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17 back on, it didn't come back on because they had been
18 down messing with the electric box. He came out on the
19 roof and fired a round from the 37-millimeter gas gun.
20 Again, snipers, very well disciplined, maintained, did
21 not exercise the deadly force option. We had to get a
22 key from DOC to deliver it so that he could open the
23 door with a key, and as we effectually said, Morey's
24 rule was in effect; it was the wrong key so we had to
25 go back and introduce a second key.

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1 And basically, the surrender plan is pretty
2 straightforward. They would exit to the lower tower
3 door. The inmates would remove obstacles from that
4 door. We would send a tactical team from the Federal
5 Bureau of Investigation and the DOC tactical support
6 unit up to the tower. They would open the door with a
7 key. They would prop it open with a sandbag. They
8 would retreat about 10, 15 yards, and the inmates and
9 the hostage would exit.

10 That's exactly what happened. The hostage,
11 Officer (name redacted), was immediately transported to the
12 hospital and the inmates were taken in custody.

13 And just sort of in closing -- and I'll see
14 if any of my compadres here need to say anything -- but
15 again, we need to look at nobody's dead. And
16 anytime -- as a commander of over 30 years doing these
17 kind of operations, anytime that you can walk away from
18 an operation this complex, this dangerous and you have
19 nobody dead, that is a very, very good thing. And I

20 think the successful resolution absolutely came to the
21 individual professionalism, creativity, patience,
22 discipline of both the correctional and law enforcement
23 officers deployed during this crisis. Thank you.

24 MR. BURKE: Thank you, Colonel.

25 MR. HOOD: A couple of very minor points in

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1 regards to the demands made by the inmates. I don't
2 want that to be construed as here's a list of cohesive
3 demands that were presented early on. In fact, that
4 was not the case. One of the things that complicated
5 the resolution was that for the first several days, the
6 inmates had no substantive demands intended to resolve
7 the situation. Their demands focused on more immediate
8 issues: handcuff key, food, cigarettes, those types of
9 things.

10 In fact, we had to introduce the strategy
11 of Interstate, and we had to do it in such a way that
12 the inmates basically ended up adopting it as their
13 own. So to perceive this as here's a list of demands
14 that need to be met, from day one was not the case. We
15 had to work over a period of obviously quite a few days
16 to get them to identify things that were necessary to
17 resolve.

18 Secondly, just to highlight the tactical
19 situation, the tactical teams over a protracted period
20 of time obviously was headed up, for the most part, by
21 Norm Beasley and DPS during the day and Chief Locksa
22 and MCSO during the night, obviously required quite a

23 bit of supplementing over that extended period of time.
24 There were a lot of agencies that provided tactical
25 units to work in concert with DPS and MCSO over that

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1 period of time. So the need to bring those new teams
2 up to speed, have them practice the assaults and the
3 rescue efforts, was ongoing throughout the 15 days.
4 Every time when we had to bring in other agencies, we
5 would bring them up to speed to provide relief to DPS
6 and MCSO. We would have to maintain that training
7 regimen and that familiarization regimen.

8 It was characterized on many occasions
9 throughout this ordeal as being an exceptionally
10 challenging tactical picture and more than once was
11 characterized as the most challenging tactical picture
12 for successful resolution that many of the command
13 staff had ever seen.

14 Lastly, a brief comment on the intel
15 efforts. I can't say enough, as Colonel Beasley
16 referenced, about the continued ongoing efforts from
17 all over -- every resource we could identify attempting
18 to obtain intelligence. We were not able to visually
19 see into that tower, and clearly both from primarily a
20 tactical standpoint, knowing the specific location of
21 the hostage takers and our staff, was paramount to any
22 tactical consideration.

23 The inability to see in led to repeated
24 efforts to, you know, interdict electronic
25 eavesdropping devices, as Colonel Beasley alluded.

1 That went on throughout, and we were repeatedly held
2 back due to the distance and the physical construction
3 of the tower in which they were held, but that didn't
4 stop throughout.

5 At no time were we able to get significant
6 electronic audio intel into the second floor, which is
7 primarily where the hostage takers and the hostages
8 were kept. We were able to interdict and sustain some
9 audio capability that primarily reflected activity on
10 the first floor, but despite our repeated efforts, we
11 were never able to get a solid and sustainable source
12 for that second floor.

13 MR. BURKE: I take it the game plan of the
14 two inmates was not to end up in a tower with two
15 hostages.

16 MR. LOCKSA: That's correct. It actually
17 was an escape attempt that went bad. Their intention
18 was to get to the tower, get some weapons, go back to
19 the kitchen area in the B building and then work their
20 way out from there. And now being armed, they had more
21 of a chance of success. They did not intend to be
22 trapped in that tower.

23 MR. BURKE: I assume that reflected why
24 they really didn't know what they wanted to -- what
25 their demands would be when they ended up in the tower.

1 MR. LOCKSA: That's correct.

2 MR. BURKE: I'm going to have some
3 additional questions, but Grant?

4 MR. WOODS: Sure. Sure. Thank you for
5 that presentation.

6 Who made the decision as to who would be
7 part of the negotiating team or the crisis team that
8 assembled on day one?

9 MR. HOOD: As Colonel Beasley mentioned,
10 the initial call went out for support from MCSO, DPS
11 and Buckeye as being the closest responders. As
12 additional law enforcement resources arrived, they
13 supplemented that with negotiating personnel of their
14 own. As this became a more protracted incident,
15 additional negotiating resources were brought in,
16 particularly from the FBI, so that we could sustain
17 negotiating teams around the clock.

18 MR. WOODS: Then you all gathered out there
19 at the site?

20 MR. HOOD: Yes, sir.

21 MR. GUENTHER: On the first day?

22 MR. HOOD: At various times, people
23 responded, of course, as they became aware or were
24 asked to respond.

25 MR. WOODS: I'd like to clear up, if we

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1 could, a few things that are kind of thrown out there
2 by innuendo, mainly by people in the community

3 regarding the Governor's role in this, and you
4 mentioned the Governor's -- in your presentation that
5 the Governor was briefed on a daily basis. Did she
6 ever go out to the scene?

7 MR. HOOD: No, sir.

8 MR. WOODS: And did she ever contradict any
9 of these orders or intervene in any way to see that
10 these standing orders regarding the snipers were
11 changed in any way?

12 MR. HOOD: Not to my knowledge, sir, not at
13 all.

14 MR. BEASLEY: If I could, I talked to the
15 Governor personally on numerous occasions. She never
16 gave any direction to the law enforcement side. We
17 basically briefed her and the director of Corrections
18 in what was ongoing, but we never received any
19 direction from the Governor or anybody on the
20 Governor's staff.

21 MR. WOODS: I want to make that clear,
22 then. Would it be accurate to say, then, let's say on
23 day one, that no elected officials were on the scene or
24 showed up on the scene?

25 MR. HOOD: No, sir, that's not entirely

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1 accurate. We had -- obviously, on the first day of any
2 incident of this magnitude, you have a lot of
3 responders. People showed up throughout the day. We
4 had occasions where people would respond when we didn't
5 ask them to, and over the course of the next few days,

6 we were able to lower our resources and remove those
7 that were not absolutely essential, scale back some of
8 the initial response that we did receive. There were
9 some people that did arrive without our particular
10 invitation.

11 MR. WOODS: And who -- elected officials
12 arrived on the scene who were not invited?

13 MR. HOOD: Yes, sir. To my knowledge, the
14 only one that I recall in that situation was Mr. Romley
15 from the County Attorney's Office, and to my
16 recollection, he arrived late morning, midmorning on
17 the first day and stayed on-site until early evening
18 hours, about 7:00 or 8:00 o'clock, after which he
19 departed and did not return. His staff or members of
20 his staff did stay on-site for several days following
21 to assist in the processing of the crime scene should
22 we have occasion to do that. But Mr. Romley did not
23 return.

24 MR. WOODS: So the Governor did not go to
25 the scene or interfere, but the County Attorney himself

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1 was on the scene during what period of time, on day
2 one?

3 MR. HOOD: Yes, sir, he was. An
4 approximate time period would be from late morning
5 around 10:00 o'clock until approximately 7:00 or 8:00
6 o'clock that first evening.

7 MR. WOODS: And he was not invited?

8 MR. HOOD: No, sir, not to my knowledge.

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9 MR. WOODS: Well, what was he doing?

10 MR. HOOD: Upon his arrival, he joined in
11 the executive command area of the administration
12 building. As Colonel Beasley pointed out, there was a
13 command -- a tactical area for negotiations at hand,
14 and there was an executive command center, and
15 Mr. Romley joined in to the executive command center.

16 MR. WOODS: Was he asked to join in, or did
17 he just come in?

18 MR. HOOD: No. When he arrived, that's
19 where he was escorted to and that's where he remained
20 for the duration of his stay.

21 MR. WOODS: And what role did he play
22 during all those hours?

23 MR. HOOD: Again, during the initial hours
24 of any incident, we were trying to gather information,
25 intel, account for resources, deploy resources and so

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1 forth. He was engaged in some of those conversations,
2 sharing observations and thoughts at times. Tactical
3 or negotiations would come in and share information and
4 seek direction, and I needed to make it clear on a
5 couple of occasions that that direction would come from
6 me as the incident commander at the time.

7 MR. WOODS: Rather than him?

8 MR. HOOD: On one or two occasions, yes,
9 sir.

10 MR. WOODS: What are you saying? Was he
11 trying to make the decisions or...

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12 MR. WOODS: In the flow of individuals
13 coming in and out of the command post during that
14 fluent situation, he would share his observations and
15 when direction was being sought, he would occasionally
16 chime in, at which point, I would provide specific
17 direction that I wanted to see taken and then follow up
18 with Mr. Romley afterwards clarifying with him that
19 there could only be one commander at that point, which
20 he acknowledged and understood and was gracious about
21 it.

22 MR. WOODS: And after he left that evening,
23 was he invited back?

24 MR. HOOD: No, sir.

25 MR. WOODS: Okay. Did you -- did you

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1 consider -- in reading the inmate interviews, did you
2 consider shooting Wassenaar? A lot of the inmates
3 thought that -- I understand the fear that if you shot
4 one without the other, then the remaining inmate would
5 inflict some sort of injury or death upon the
6 hostages, but there seemed to be quite a bit of input
7 that Wassenaar was the leader here and that Coy would
8 fold if Wassenaar was taken out. Did you talk about
9 that?

10 MR. BEASLEY: Yes, we did. We talked about
11 that very issue. But the general consensus of all of
12 us involved is that we really couldn't trust that. If
13 we did exercise a deadly force option on one inmate,
14 then that would precipitate an immediate tactical

15 assault. There was no plan that we would enforce a
16 deadly force option and then try to renegotiate with
17 the remaining inmate. If we took a deadly force
18 option, that was the beginning of the end, and we would
19 make a tactical assault on the tower.

20 MR. WOODS: Did you feel the risk was too
21 high that Coy would do something before you could get
22 in there?

23 MR. BEASLEY: Yes.

24 MR. WOODS: But you did consider that
25 option?

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1 MR. BEASLEY: Yes.

2 MR. WOODS: Okay. Just a couple of other
3 questions. Well, back to this County Attorney thing.
4 I never heard that before. Actually, given the
5 context, this is quite amazing information to me. Was
6 the County Attorney's Office -- I didn't see the
7 Maricopa County Attorney's Office on that flowchart or
8 any of the flowcharts as -- that you gave as far as
9 command. Were they involved?

10 MR. BEASLEY: They were not involved in the
11 command of the incident. They did have -- as Mr. Hood
12 advised, they did have a representative at the command
13 center for most of the time. Toward the end, they were
14 not there, but in the first part of the incident, they
15 did have a representative there, but he exercised no
16 command control authority.

17 MR. WOODS: Do you agree with Mr. Hood's

18 characterization of Mr. Romley's actions in the first
19 day?

20 MR. BEASLEY: I was not in that room all
21 the time, but I would -- I would concur that there was
22 a wide variety of discussion going on by all the people
23 in there, to include Mr. Romley, on various potential
24 tactics, negotiation strategies. So it was pretty much
25 a free-flowing think tank operation in there, so yes,

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1 he did provide input, as did everybody else.

2 MR. WOODS: And lastly, you changed
3 strategy on day 13. In retrospect now, do you think
4 maybe you should have changed strategy earlier? It
5 appeared to have worked. You are the professional.
6 Did you see need to have that 13-day period of time in
7 order for the new strategy to work, or could you
8 perhaps have changed strategies earlier? What's your
9 assessment now looking back on it?

10 MR. BEASLEY: Our assessment is we needed
11 to make that change on day 13. Whether or not had we
12 done that day one, would we still have gone 15 days,
13 it's -- it would be mere speculation. But what we do
14 know is that when we deploy these kind of situations,
15 we have a plan, and it's a multifaceted plan, and it
16 involves a lot of psychological operations that had not
17 been done up until that time. So a long story to say,
18 if we would have done some of those things at the very
19 beginning, it may not have gone 15 days. But we have
20 to realize that a lot of the groundwork, the building

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21 blocks for our success, as you said from day 13 to day
22 15, really was set day 1 through 13. And it allowed us
23 to capitalize on what had already happened.

24 MR. CHURAY: If I could also add. At day
25 13, we had a great deal of intelligence that wasn't

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1 available through those first 13 days. There was
2 information that we became aware of after the -- after
3 certain negotiation segments had occurred from an
4 intercept that we were partially successful with to
5 indicate there was -- that the negotiation wasn't being
6 taken seriously by the -- by the subjects. There were
7 indications that we began to see, and we did not have
8 those indications earlier. So I believe that the
9 change at day 13 was precipitated based on all the
10 intelligence that was gathered by those 13 days.

11 MR. HOOD: One additional comment,
12 Mr. Woods. There were efforts early on to increase the
13 pressure, both physically and psychologically, on the
14 inmates, and specifically there were -- there was
15 reluctance to meet some of their demands for food and
16 other items to be delivered. That resulted in a threat
17 to remove one of the officer's fingers. And
18 subsequently, intel received after the release of the
19 first hostage supported that that was not -- that was
20 not perceived. It was just a bluff.

21 Secondly, there were tactical preparations
22 made early on -- I believe it was day two or day
23 three -- that involved the cutting of some fence lines

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24 during the middle of the night. When the inmate
25 finally observed those the following day or the day

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1 after that those fences had been cut, that resulted in
2 the -- in the threatening of the hostages with weapons
3 and the officers being placed on either the telephone
4 or the radio -- I don't recall which -- pleading and so
5 forth. So there were some other preparations or
6 tactical options exercised early on that the reaction
7 to which did cause us some concern about how far, how
8 fast we can push in those early days.

9 MR. WOODS: Did you all ever consider
10 adopting a policy that would have said, we will not
11 negotiate with prisoners who take hostages, period?

12 MR. HOOD: That is -- that is a stated --
13 brief statement contained in some policy documents in
14 the department; however, we also train hostage
15 negotiators. Under these circumstances with the
16 tactical options being as vastly limited as they were,
17 we didn't see a viable option but to begin negotiations
18 with them. We just didn't have a good tactical option
19 that allowed us with any degree of reasonable success
20 to dissolve that without entering into negotiations.

21 MR. LOCKSA: Many policies can be in place,
22 but what you have to do, especially when you are
23 dealing with people's lives, is you have to adjust to
24 the situation that you are facing. What we had here is
25 we had one of the most difficult situations that we

1 could imagine, because they are in command of a tower
2 that's meant not to be penetrated. They have two
3 hostages, and they have a lot of weapons, so the risk
4 is very high there.

5 So what you have to do is you have to adapt
6 to the situation, and just like in the negotiation
7 process, if we go back and we say, could we have maybe
8 done something different and it might have worked, pure
9 speculation. We don't know. Maybe the change of
10 tactics on the 13th day was the perfect time for it to
11 happen. We don't know that either. What we do know is
12 that they came out alive, which was the most desirable
13 thing we could have imagined. And if it had happened a
14 different way, you know, it's hard to say what would
15 have caused it.

16 So it's like anything else. You have to
17 adjust to what's in front of you. When you say you
18 won't negotiate, it depends on what the circumstances
19 are. A policy is a guideline that you have to adjust
20 to what's in front of you when you are talking about a
21 human life.

22 MR. BEASLEY: And negotiations really has
23 two roles. The first role -- and it's the most
24 important -- is to achieve a peaceful resolution,
25 basically nobody dead. The second role is to buy time

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1 so that the tactical component can prepare to resolve

2 it tactically, if that becomes necessary. And I think
3 that's exactly what we saw unfolding here. We could
4 not have successfully resolved that incident on day
5 one. We just did not have the intelligence. We did
6 not have the assets in place to do that. As the days
7 went on, our teams became better and better and better
8 at resolving it, and by day 15, they were extremely
9 well prepared to do what they had to do if the tactical
10 resolution order was given.

11 MR. WOODS: It's fair to say, is it not, or
12 would this be inaccurate, the things that you, quote,
13 gave them in these negotiations seem pretty meaningless
14 in the big picture? In other words, you weren't
15 willing to negotiate on anything of any importance; it
16 was food and things like that with the exception of the
17 idea that they would ultimately not be put in the
18 Arizona prison system, and I believe you wouldn't want
19 them in the Arizona prison system anyway.

20 MR. HOOD: That is correct, sir. There was
21 discussion -- the inmates did interject a demand to
22 have certain charges only brought against them as part
23 of the negotiation. We did not go there. We told them
24 that's not something we are ever going to pursue.
25 That's not for us to decide. The pressing of charges

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1 is the County Attorney, and rightly so, so we did not
2 enter into negotiations with them on that subject, and
3 it ultimately did not become a problem.

4 Other demands, such as a helicopter and so
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5 forth, were obviously not met for very obvious reasons,
6 I would think, so essentially that is correct. We
7 ended up negotiating over comforts -- food, water,
8 those kinds of things -- and then agreed to place them
9 out of state, which as a management practice, we would
10 have done anyway.

11 MR. LOCKSA: Naturally, a lot of those
12 things that may seem kind of minor were very important
13 in the scheme of everything, because when you
14 understand the psychological effect, what is going on
15 with the inmates, with the hostages in there, what
16 motivates them -- and it's like, Wassenaar was well
17 known for being a clean freak, for lack of a better
18 term, and he needed to be clean; he needed water, so
19 this was a driving force for him, and it was very
20 significant and important to him. Every item that we
21 gave or didn't give was thought over very carefully to
22 see what the most desired effect would be from either
23 giving or not giving that particular item while
24 minimizing the risk to the hostages.

25 MS. MORRISON: Why is it a management

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1 practice you were going to send the inmates out of
2 state?

3 MR. HOOD: Under these circumstances, those
4 inmates had access to information that inmates should
5 never have access to: the specific configurations of
6 those armed towers, which are replicated at other
7 facilities throughout the state; the configuration of

8 video and control capabilities from those towers; the
9 configuration of communication capabilities; as well as
10 having access to officers obviously under duress in
11 terms of how to operate those capabilities. Even
12 things such as specific interior layout of that tower
13 may become valuable to other inmates if that
14 information were to be provided to them. So from a
15 very practical standpoint, not having them in our
16 system represents an ability to better preserve the
17 security system we have in place at many locations
18 throughout the Department of Corrections.

19 MR. LOCKSA: It is also how they are viewed
20 by the other inmates in the system. In other words, by
21 conducting this standoff, they had moved themselves up
22 in the hierarchy of the prisoners' society, so they are
23 now -- their reputations are now built, and they'll be
24 better known in Arizona as the people that held law
25 enforcement off for 15 days. So to move them out of

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1 the system diminishes somewhat their status in the
2 prisoner society.

3 MR. HOOD: The movement is a standard
4 approach. We have approximately 100 inmates from other
5 systems. We have approximately 100 of our inmates
6 scattered throughout the various states, as well, and I
7 think there has been testimony to this panel to that
8 previously. Those transfers occur for a variety of
9 reasons, either of which is the advice of management or
10 security concern. So this is not in any way an unusual

11 practice.

12 MR. RIVELAND: I have a couple of questions
13 for you. First of all, I think you all and your staff
14 should be commended for a successful venture and the
15 other agencies involved also. No matter how you look
16 at it or you learn from it, the ultimate success was
17 achieved, and I think, both from what we have heard and
18 what we have seen today, you all approached that
19 terribly professionally.

20 One addition that I had to Mr. Hunt, it
21 seems to me -- and is another reason to automatically
22 move inmates out of state, is there may be serious
23 concern that other staff might be going against them if
24 they are retained? Is that true in our experience?

25 MR. HOOD: That is certainly true, I least to

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1 which that it may actually occur, but that it may be
2 alleged by the inmates to have occurred. So the
3 liability or the potential liability for to us keep
4 them here from a legal standpoint, as well as the
5 stress and the pressure that does put on our staff to
6 deal with them on a day-to-day basis should we continue
7 to house them within the system, is certainly
8 challenging, and there is simply no point in running
9 that risk when for other reasons, as well, you would
10 want to remove them from your system. So you are
11 correct, sir.

12 MR. RIVELAND: We heard some testimony at
13 Lewis several days ago from an officer, and I think

14 unfortunately was operating on rumored information
15 rather than factual information, but nevertheless, the
16 statement was is that the snipers could have picked off
17 the people on the first or second day that they had
18 seen them together, and we heard some response to that
19 later on. But when you were talking to Colonel about
20 the -- using the mock-up in the glass, when did that
21 occur when people first were able to fire at Lexan that
22 was at the same angle that previously -- that the tower
23 had?

24 MR. BEASLEY: I believe that occurred the
25 second or third day. I'm not -- but it would have been

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1 in that time frame.

2 MR. RIVELAND: So it's best, then -- in the
3 first two or three days, it would have been a big
4 unknown whether they could pick them off through the
5 Lexan?

6 MR. BEASLEY: Yes. Yes. And I can tell
7 you that that absolutely did not happen.

8 MR. RIVELAND: On the first couple of days?

9 MR. BEASLEY: That did not happen through
10 the entire 15 days. There was never an opportunity to
11 tactically resolve this situation through sniper fire.

12 MR. LOCKSA: Understand, too, what would
13 have had to have happened is that both suspects would
14 have to have been clearly identified and been taken out
15 at the same time; in other words, you couldn't take one
16 out and then find the other one and take that person

17 out. They had to be taken out at the same time. There
18 was a concern also because the one corrections officer
19 and the one suspect by the name of Coy looked very
20 similar. They had -- you know, their hair was short
21 cropped on the head. They were about the same physical
22 appearance. We needed to make sure that we weren't
23 confusing that corrections officer with the suspect.
24 So it had to clearly have them both identified before
25 that officer would be -- put into place, but it was

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1 there for them to take.

2 MR. RIVELAND: Did the second logistical
3 profiling on the two inmates that you had available to
4 you during the course of this leave any doubt in your
5 mind as to whether they would respond -- if they would
6 harm the hostages if, indeed, they felt an assault
7 coming or one was taken out by a sniper?

8 MR. LOCKSA: They were both very capable of
9 doing it.

10 MR. RIVELAND: And so the assumption from
11 all of you is that that potential was likely?

12 MR. LOCKSA: There was a clear danger.

13 MR. BEASLEY: And that is why our decision
14 was not to eliminate one threat without moving forward
15 to eliminate the second threat during the assault.

16 MR. RIVELAND: Some folks, as I have seen
17 it reported to the media, sort of -- a couple of the
18 negotiated four items sort of made it seem bigger than
19 they really are, the two beers for example. The

20 question in my mind is, how many beers are two lives
21 worth? But nevertheless, did anybody have any
22 recognizance at all in providing such a thing given the
23 status of the negotiations at that point in time?

24 MR. BEASLEY: I can tell you that when I
25 heard that from the negotiator, I made a recommendation

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1 to the department and to Jeff Hood that this should not
2 be a show-stopper. We have this -- the inmates where
3 we wanted them. We are very close to a resolution, and
4 let's not worry about giving an inmate two beers.

5 MR. HOOD: If I recall correctly, the
6 initial demand in that regard by the inmates was a
7 12-pack of beer. It was subsequently reduced to a
8 6-pack. Certainly introducing alcohol under those
9 kinds of circumstances is something that would be cause
10 for concern, but as the Colonel represented, being able
11 to bring this resolution over to two 12-ounce cans of
12 beers was considered and determined to be an acceptable
13 risk.

14 MR. CHURAY: I also think that the -- the
15 history that through the negotiations was that when we
16 did extract a promise from Wassenaar, he kept that
17 promise, and the fact that -- had that not occurred,
18 perhaps it might have been a different decision;
19 however, he had been true to his promises in the past,
20 and that's when we decided that, or it was decided that
21 two cans of beer, if that would keep his promise; it
22 was worth it.

23 MR. RIVELAND: It seems to me the two parts
24 that we are looking at, one is, what led to this
25 problem and talk about how it can be prevented. And

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1 the second one is, once it was there and you had this
2 formidable challenge that you all had in this fortified
3 facility, if each of you look back on it now, again,
4 with a caveat that I think you did a remarkable job but
5 we always can learn something from it, were there other
6 resources that you didn't have that you would have
7 loved to have had? Are there coordinative issues that
8 you would see if you had to do it again six months from
9 now that would work better for you?

10 MR. LOCKSA: I think one thing that we
11 needed -- and it was one of these things that you see
12 on TV where you can see through walls and pick people
13 out. We were trying real hard to find one of those,
14 and we found out that nobody had one. But as far as
15 the equipment that we needed for tactical, we had
16 pretty much everything we needed and could imagine:
17 the explosives, the sniper rifles, the weapons.
18 Everything was there. All the teams that we had were
19 very well equipped. If I can say with the exception of
20 having something that could see through those walls for
21 us, we pretty much had what we needed.

22 MR. BEASLEY: You know, probably the key to
23 the -- from the law enforcement side of the success
24 was, we work with each other every day. We do joint
25 tactical operations under the weapon of mass

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1 destruction program of the last four years. The same
2 units that were deployed are the same units that would
3 respond to a counterterrorist incident. We know each
4 other on a first-name basis. We train, we plan, we
5 exercise together. So it was an absolute seamless
6 operation. The only recommendation, quite frankly, I
7 would have for the Department of Corrections was, we
8 need to bring them into this fold, and we need to do
9 joint training with all of our partners, to include the
10 Department of Corrections.

11 MR. HOOD: A comment to Mr. Rivel and in
12 regards to -- I echo everything that Chief Locksa and
13 Colonel Beasley said. I think that the tactical side
14 was very well orchestrated. I think that some of the
15 initial radio frequency -- anytime you get that many
16 jurisdictions with their own equipment, I'm not sure
17 that there's a perfect solution, but that would be
18 certainly something that may have enhanced some of the
19 communications early on, not that I think it would have
20 changed the outcome, but it did present some logistical
21 challenges whenever you have that many agencies with
22 their own communications, gear.

23 On the topic of the negotiation end, I
24 don't know that we have had as much experience
25 certainly from the Department of Corrections

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1 standpoint. I can say that we have not had that level
2 of experience in terms of cross-training with other
3 hostage negotiation teams, so as we explore ways to
4 enhance interagency cooperation, I would certainly
5 think that having multi-jurisdictional hostage teams
6 also coordinating their efforts may also be beneficial.

7 I don't know how you plan, you know, for
8 having all of the possible agencies involved for what
9 turned out to be a 15-day incident. Certainly we have
10 learned from some of the lessons of the past, and we
11 will certainly learn from this, as we very well should.

12 But in hindsight, I think that a better
13 preparation of all of the negotiation components
14 available to us from simply a logistical coordination
15 standpoint may have been some benefit. But beyond
16 that, I think it was handled as best as we could.

17 I'm not aware of other tactical resources
18 that we needed, except for the devices that Chief
19 Locksa mentioned. I'm very disappointed in the movie
20 producers in what they can't do, but other than that, I
21 think we had the equipment that we needed. I think we
22 had the coordination that we needed. Some enhanced
23 cooperation -- not cooperation, but coordination of the
24 negotiation unit may be a benefit in the future.

25 MR. WOODS: Should DOC have encrypted

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1 frequency radios?

2 MR. HOOD: It should be something we should

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3 explore. Clearly the ability to monitor channels is
4 problematic for us. We do have the radios that were --
5 the inmates were able to obtain were limited, so they
6 didn't have access to all of our channels, but under
7 the circumstances and given the fact that we had
8 basically a second incident going on throughout this --
9 we had an incident involving the lockdown of 4500
10 inmates in immediate proximity to this -- certainly
11 complicated our overall picture here.

12 So we had the tower to manage, as well as
13 needing to keep 4500 inmates maintained in a lockdown
14 situation for an extended period of time. So given the
15 magnitude of that event, we did have to communicate
16 over nonencrypted channels that the inmates did have
17 access to, so possibly increasing the capability of
18 certain radio frequencies or possibly exploring
19 encrypted channels may be something of benefit.

20 MR. RIVELAND: From the FBI's perspective,
21 you have a lot more negotiating experience than many
22 other jurisdictions. Did you think that it would be
23 helpful?

24 MR. CHURAY: I think Colonel Beasley hit
25 the nail right on the head. All of the rest of the law

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1 enforcements, we practice on a regular basis. We get
2 together. We do drills. We do exercises. In the
3 federal system, the FBI practices approximately once
4 every two years at the federal prisons and actually
5 develops the facilities, where if they have an event

6 such as this, they are already prepared. We are ready
7 to go in. We know one another. We have established
8 what the lines of communication would be, and I
9 would -- I would concur with that recommendation, that
10 state department corrections begin to set up similar
11 systems where maybe once every two or three years,
12 there is an exercise that each one of the prisons gives
13 us the opportunity to meet. It also prepares the
14 facility for an event such as that.

15 Sometimes those first few hours even
16 finding a room to locate everyone, that has enough
17 phones in it, that has enough electricity to run, has
18 enough cable to put the televisions in, the monitors
19 in, it's difficult, and it's time wasted in an extreme
20 crisis situation. So that preparation is time well
21 spent, and I would highly recommend it.

22 MR. RIVELAND: Final comment. I think that
23 your counterparts across the country have a lot to
24 learn from you at this point, how you successfully
25 managed a very difficult situation. It can be shared.

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1 MR. CHURAY: Absolutely. This is the kind
2 of event where everybody learns something and everybody
3 walks away better prepared to address the situation
4 like this in the future.

5 MR. BRANHAM: I would like to add to that
6 point where we had an opportunity to decide how we want
7 to make sure that not only Arizona law enforcement and
8 corrections gets a chance to review this and learn in

9 training classes with everybody, but have you talked
10 about incorporating this into the national academy
11 curricula and those kinds of things?

12 MR. CHURAY: Yes. As a matter of fact, we
13 have. There's already been a number of meetings that
14 have already been scheduled to do this presentation
15 that talk about the reasons for success that we had.

16 MR. BEASLEY: And the International
17 Association of Chiefs of Police has contacted me and
18 asked that we do a presentation at the IACP
19 international conference in Los Angeles in October.

20 MR. BRANHAM: I can think of no better
21 place than the IACP conference for that to happen.
22 That's good.

23 MR. BURKE: Mr. Guenther?

24 MR. GUENTHER: When did you feel that you
25 had a reasonable technical -- tactical option? I mean,

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1 what day? When did you feel like you had enough to
2 know how to get in the tower if you had to and were
3 prepared to?

4 MR. LOCKSA: We had tactical options the
5 first day. There was -- and with tactical options,
6 there are always degrees of risk, so the more time you
7 have to concur, the more intelligence you have, and the
8 more -- just like practicing on the other towers and
9 stuff like that. But there were tactical options in
10 place almost immediately.

11 MR. GUENTHER: When did the joint tactical

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12 team take over from the DOC?

13 MR. LOCKSA: We went online as soon as we
14 arrived. When we were arriving, we organized -- I'd
15 say we were online within a couple of hours.

16 MR. GUENTHER: So the morning hours of the
17 first day?

18 MR. LOCKSA: Yes.

19 MR. GUENTHER: There was a lot of
20 discussion about the handcuff key that was initially
21 requested on the first day. Obviously, the inmates
22 were not handcuffed because they both were in the tower
23 unhandcuffed. What -- was there a hesitancy in
24 providing a handcuff key to the tower for some reason?

25 MR. HOOD: Yes, Mr. Guenther. There was

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1 extensive conversation about the purpose for that key.
2 We did not know in the early hours whether the officers
3 had been able to handcuff themselves to a stationary
4 object, for example. We didn't know initially whether
5 one of the inmates had been restrained in some fashion
6 during the takeover of the tower. We didn't know
7 whether or not the officers had been able to disable
8 possibly one of the weapons by using one of the
9 restraints through either a trigger guard or through a
10 bolt area of one of the weapons. We simply did not
11 know.

12 Inmate Wassenaar repeatedly conveyed early
13 on that this was for the benefit of our officers, and
14 frankly, it was difficult to perceive someone as having

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15 just taken over violently a tower as having the welfare
16 of the staff be his primary concern, so there was great
17 deliberation and discussion about the possible
18 ramifications of that handcuff key being delivered,
19 whether that would create a mobile hostage situation
20 prior to being fully prepared for that or other
21 possible ramifications of delivering that key. So yes,
22 there was great discussion about that and throughout
23 the first day.

24 MR. GUENTHER: But Wassenaar was outside
25 the tower with the rifle firing at the officers trying

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1 to detain Inmate Coy.

2 MR. HOOD: That is correct, during the
3 takeover of the tower, but we didn't know what
4 transpired either in those initial moments, if you
5 will, or immediately following. We were not sure of
6 the location of the hostages, where they were within
7 the tower or where they were -- exactly what transpired
8 after the incident that you mentioned.

9 MR. GUENTHER: There were attempts during
10 the takeover to -- well, first of all, subdue Coy out
11 in the yard where spray was used, pepper spray or mace,
12 whatever it was. There was also indications that at
13 some point in time while Inmate Wassenaar was firing an
14 AR-15 from the gate -- and I believe that was the A
15 gate that he was firing from -- that there were
16 officers in the vicinity that tried to spray mace or
17 some other spray on him. Have you -- did you compare

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18 notes as to the type of spray that was used or why the
19 spray did not incapacitate either Inmate Coy or Inmate
20 Wassenaar?

21 MR. HOOD: That was never a discussion that
22 I was aware of that occurred through the role that we
23 encountered in responding to the incident after the
24 inmates were already in the tower. Our focus was, what
25 is our situation in the tower? What is our tactical

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1 situation, negotiation situation and so forth? So
2 there were not extensive conversations that I'm aware
3 of at that time that talked about all of the precursor
4 incidents that led up to the tower being taken.

5 Certainly in the intelligence, we could
6 gather that it was pertinent to the situation that we
7 encountered, was important to us, was interviewing the
8 other inmates, interviewing the other staff that was
9 involved to the extent that they could shed light on
10 the circumstances that we encountered in terms of the
11 particular effectiveness or lack thereof of chemical
12 agents or other attempts prior to the takeover of the
13 tower was not a focal point in resolving the tower
14 situation for us.

15 MR. GUENTHER: So I guess what you are
16 saying is I should ask someone else about that?

17 MR. HOOD: Well, with all due respect, sir,
18 that was just in terms of our handling of the tower
19 incident. We weren't focused on all of the particular
20 events that led up to that. Our focus was what we were

21 encountered with in terms of hostage takers and the
22 hostages in the tower. And everybody that played a
23 role in the existing -- in this successful conclusion,
24 you would also have an opportunity to discuss the
25 issues that led up to the hostage situation with the

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1 other law enforcement. I have not personally had that
2 opportunity to any meaningful extent at all. It is
3 certainly something that needs to occur, and I think
4 will be part of the process, but I have not been part
5 of that type of conversation with these gentlemen to
6 this day.

7 MR. BEASLEY: However, we did have a
8 debriefing when the Department of Corrections'
9 investigators came in and basically debriefed the
10 participating law enforcement as to how it starts up to
11 the point where the tower was taken.

12 MR. CHURAY: Sir, with regard to the less
13 than lethal defenses that were employed, it just did
14 not seem to be much of a surprise to most of us in law
15 enforcement that that was not effective. We see it all
16 the time. It may work; it may not work. It depends on
17 the individual, the individual's physical state to
18 include chemical processes that are occurring in that
19 person's body at the time. So I don't think that we
20 spend a whole lot of time talking about that simply
21 because it was not a surprise to any of us that the
22 pepper spray did not work.

23 MR. LOCKSA: I can tell you one of the

24 responsibilities that you have as the training
25 division -- and we provide the training for our

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1 sworn-in detention personnel during the training, a
2 process they are sprayed with various chemical agents,
3 including pepper spray. Some people, it will affect
4 them very greatly, and other people, it won't affect
5 them at all. It just depends on the individual person.
6 It is just like Ray says, there is no way to predict
7 how the spray may affect one person over the other
8 person.

9 MR. BURKE: Mr. Cohen?

10 MR. COHEN: Yes, Mr. Chairman?

11 MR. BURKE: Questions?

12 MR. COHEN: No. I think I would just like
13 to say for the record, that based on the presentation
14 today and the material that I reviewed already, the
15 tactical operation practice group operated in a manner
16 that is consistent with the best practices throughout
17 the country, and I think, quite frankly, based on the
18 provision we have seen, they should be commended for
19 the way that they handled this situation, particularly
20 in the area where operational tactical control was
21 maintained at the scene of the incident, as opposed to
22 external to the incident. So I think that in respect
23 to activity from the media we have seen suggesting that
24 tactical operational control rested elsewhere, I have
25 not seen anything today or heard anything to date that

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1 would suggest that that would be a valid concern.

2 MR. BURKE: Ms. Morrison?

3 MS. MORRISON: I'm fine.

4 MR. GUENTHER: I have a few more. When --
5 after the incident was over and after we took the
6 inmates and secured them, those inmates were then
7 turned over to the Bureau of Prisons, right?

8 MR. HOOD: That is correct.

9 MR. GUENTHER: And it was -- evidently,
10 they were disrobed, stripped, searched and then sent
11 off to a DOC facility; is that correct?

12 MR. HOOD: That is correct.

13 MR. GUENTHER: Who did the strip search of
14 those inmates?

15 MR. HOOD: I was not down there for the
16 strip search. Again, that would be a joint strip
17 search involving the Bureau of Prisons' personnel,
18 which is pretty standard; if you are going to take
19 custody of someone, you are going to be involved in the
20 strip search of that individual. So that was the
21 instruction that it would be joint involving the Bureau
22 of Prisons' personnel. Specifically who did the search
23 itself, I'm not a hundred percent sure at this point.

24 MR. GUENTHER: But that information is
25 available?

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1 MR. HOOD: Yes, sir. We can find that out.
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2 MR. GUENTHER: Okay. Thank you.

3 MR. BURKE: I have a few additional
4 questions in addition to Mr. Woods' question with
5 regard to not negotiate. I don't think you had an
6 opportunity to answer that from an FBI's perspective.
7 I was wondering if you can give us any thought on that.

8 MR. CHURAY: Slight, and I would echo
9 Colonel Beasley. Initially, there are two reasons for
10 negotiation. One is the possible quick release of any
11 hostage. The second is buying time. The negotiations
12 part is the first part that I think allows tactical to
13 buy time to prepare your SWAT team for tactical assets,
14 to make sure they are comfortable with the situation,
15 they've had enough time to do a survey and determine
16 how they can best try to remedy the situation and save
17 everyone's life.

18 So I'm not familiar with the Bureau of
19 Prisons' -- the Arizona Bureau of Prisons' policies
20 with a straight up, we will not negotiate with
21 prisoners who take hostages. But I think that you have
22 to look at every situation. And in this situation,
23 negotiations, in my perspective, was absolutely
24 necessary, if at least to give the tactical assets the
25 time to do an evaluation on how successful they could

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1 be in an immediate tactical situation.

2 MR. BURKE: From the FBI, did you just use
3 local negotiators?

4 MR. CHURAY: No. We -- initially when I
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5 was contacted and asked if I could provide
6 negotiations, we used our local trained negotiators;
7 however, I believe it was approximately maybe day four
8 that we offered to bring in some of the people from the
9 office of the behavioral science unit who have had a
10 great deal of -- and two of those individuals were
11 brought in, as well as some of our hostage rescue team
12 personnel, to provide an evaluation and hopefully
13 assist in the tactical plan.

14 As time went on, those -- those assets that
15 we brought from our behavioral science unit came to me
16 and indicated that the negotiators, because of the
17 lengthy shifts that were occurring, needed more
18 support, and they identified people from other states.
19 We brought two people in from San Diego who had had
20 prison negotiation experience prior to this, and we
21 also brought an individual near the 13th day from
22 Alabama who had been at one of the major federal prison
23 negotiations, and he brought his expertise in. So we
24 were -- we were very amenable to bringing in whatever
25 resources were necessary.

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1 MR. BURKE: Colonel Beasley, I think during
2 your presentation you said the FBI was brought in on
3 the fourth day. How is that determination made at that
4 point?

5 MR. BEASLEY: Chief Locksa and I had a
6 discussion. We were working our shifts extremely long,
7 and quite honestly, we needed to get people relief, and

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8 so we looked at Valley law enforcement agencies and we
9 looked at FBI. Again, we work very closely with them.
10 The FBI readily agreed to provide support. They were
11 actually there earlier looking at the situation,
12 deciding what assets that they would need, and then on
13 day four, they actually deployed with us, and that's
14 when the two behavioral scientists from Quantico were
15 also on-site.

16 MR. BURKE: You mentioned in your
17 presentation, Colonel, an attempt to bring in a hostage
18 phone. Can you next explain, what is a hostage phone?

19 MR. BEASLEY: That is a method of
20 communication that we have that allows basically
21 secured communications between a negotiator and the
22 hostage taker separate and distinct from, you know,
23 radios that we use, separate and distinct from our
24 phone line. It's a direct system from the hostage
25 taker to the negotiators.

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1 MR. BURKE: I think, Colonel and Chief, you
2 made it abundantly clear your standing warning orders
3 and the opportunities or the lack of opportunity where
4 two inmates were on-site for the tactical team to take
5 them out. My understanding is, though, that some
6 individual called up KTAR last week during the Preston
7 Westmoreland show and honestly claimed he was a member
8 of the tactical team and that he or one of his comrades
9 or colleagues had an opportunity to take out the two
10 inmates but were told not to. Would you care to

11 comment on that?

12 MR. BEASLEY: I can comment from the time I
13 was there, that it is absolutely incorrect. We never
14 had the opportunity to tactically resolve it with both
15 inmates. I explained our use of force. Had we had
16 that opportunity, this situation would have been over.

17 MR. BURKE: Chief.

18 MR. LOCKSA: And I had absolute control
19 over the nighttime operations, and at no time did we
20 have that opportunity. Again, that option would have
21 been both inmates been positively identified and taken
22 out at the same time, and that was never there.

23 MR. BURKE: There was testimony last week
24 from a corrections officer at one of our field hearings
25 who was not part of the tactical team but claimed that

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1 his friend had told him that throughout the night, you
2 could hear female screams from the tower. Is there any
3 comment on that?

4 MR. LOCKSA: I have never heard that
5 before.

6 MR. BEASLEY: We -- and I can't remember
7 the day, but our -- one of our intelligence observer
8 teams using a device was able to pick up what sounded
9 like screams, but again, very hard to determine what
10 exactly that was. It was -- the best I can recall,
11 that only occurred one time.

12 MR. BURKE: There is no possible way that
13 someone from the tactical team position could have

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14 heard any screaming from the tower, though? Is that
15 physically possible?

16 MR. BEASLEY: No -- I don't know.

17 MR. LOCKSA: It might have been possible.

18 Some of the snipers were like, what, 40 yards?

19 MR. BEASLEY: 55, 60 yards.

20 MR. LOCKSA: So if somebody was screaming
21 real loud near the hatch or something, they could
22 possibly hear them, but as far as female screaming
23 throughout the night, I never heard that.

24 MR. BURKE: Yeah. But it would mean that
25 the tactical team would have had to hear that, and the

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1 sounding devices that were placed there did not pick it
2 up, correct?

3 MR. HOOD: We didn't have intel -- we
4 didn't have audio intel coverage the entire 15-day
5 period. It was intermittent at first. We only
6 sustained -- I believe in the second week, we were able
7 to sustain through, so there may have been
8 opportunities in there where we didn't have audio
9 coverage the entire 15-day period, but again, as Chief
10 Locksa and the Colonel points out, it was approximately
11 60 yards from the tower and others were even further
12 out. So that you could actually audibly pick up, I
13 don't know.

14 MR. BURKE: Colonel, was there a time when
15 the robot was disengaged and unable to work?

16 MR. BEASLEY: Yes, early on. We operated

17 it with a fiber-optic cable, and early on, the cable
18 became tangled and snapped, so we had to do a tactical
19 retrieval of our robot, and we put a new cable on, and
20 it was back in service.

21 MR. BURKE: Was there a time when they
22 requested a helicopter?

23 MR. BEASLEY: Very, early early on in this
24 situation, and then that never came up again.

25 MR. BURKE: I assume that was denied?

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1 MR. HOOD: It was just ignored.

2 MR. BEASLEY: It was just ignored, yeah.
3 It was moving on to the next subject.

4 MR. BURKE: Any other questions for this
5 panel?

6 MS. MORRISON: I just have a curiosity. Up
7 on your PowerPoint, you had said that the inmates were
8 denied speaking to their wives, yet other family
9 members were chosen to speak to them. Why not the
10 wives?

11 MR. BEASLEY: This is using a third-party
12 negotiator. This is not something we do lightly. We
13 do interviews. We do backgrounds to determine if, in
14 fact, a third-party negotiator is really going to add
15 value. In both of those cases, our interview teams
16 determined they would not add value and, in fact, may
17 exacerbate the situation, so we did not use them.

18 MR. BURKE: Do you have any other
19 questions?

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20 MR. BRANHAM: Just a quick question. Maybe
21 for the panel's benefit, if you can take just a couple
22 of moments to answer and explain the level of selection
23 and training that goes into picking both your hostage
24 negotiators and your tactical personnel.

25 MR. BEASLEY: I'll speak for DPS, and

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1 really I can speak for the command staff and the
2 supervisor command staff of the tactical negotiation
3 operations. You probably had close to 300 years of
4 experience deployed there. The average time for a DPS
5 tactical officer is probably five years, six years.
6 The majority of the officers that we have are 10 to 30
7 years with our special operations unit.

8 MR. LOCKSA: I can tell you that the
9 physical and the mental training and the stress that
10 they experience during their training is intense. Just
11 to be put into the tactical arena, they have to go
12 through the selection process that requires physical
13 and mental stress to the ultimate degree. We make them
14 as tired and exhausted as possible, and then we put
15 them to the test.

16 I can tell you that we have had
17 exercises -- and I'll give you an example. We have
18 actually had an exercise against the Navy Seal team,
19 and our SWAT team defeated them. So that's an example
20 of the level of the training that they get. I guess
21 that's the best example that I can give you.

22 MR. BEASLEY: You know, I might also point

23 out that we brought out three advisors -- three
24 advisors from the FBI hostage rescue team to look at
25 what our people put together, our tactics, and they

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1 said we couldn't do it any better.

2 MR. CHURAY: Yeah. Their response to that
3 review, there was a few things that they would possibly
4 do, but they had access to some air assets that would
5 assist them in doing that. And that's a team that all
6 they do is they practice hostage rescue every day.

7 As far as our SWAT teams go, it is very
8 difficult to become a SWAT team member. I'll give you
9 an example. As an example, I think we'll have maybe 25
10 agents who are in excellent condition will apply to
11 become a SWAT team member. It's a day's worth of
12 rigorous testing, and maybe two or sometimes even none
13 will make it to the SWAT team. It's sometimes five or
14 six classes before we can find a few applicants that
15 can make the test with our negotiators. It is probably
16 about a two- to three-year training before they are
17 actually authorized to come in and become a legal
18 negotiator. And negotiators respond with the Phoenix
19 Police Department and in other local police departments
20 on a regular basis just to get the experience of the
21 negotiations in different situations.

22 So I would agree with Colonel Beasley,
23 again, and Chief, that it was probably 300 years of
24 experience at any one time at the prison looking at
25 negotiations and/or tactical solutions.

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1 MR. RIVELAND: It sounds like one of your
2 recommendations can be to improve the training of the
3 Navy Seals; is that correct?

4 MR. LOCKSA: I don't think I'll say that.
5 There may be some around.

6 MR. HOOD: Mr. Burke, if I may follow up on
7 something, follow up on one of Mr. Guenther's questions
8 regarding the strip search. If the issue -- and we'll
9 certainly find out who specifically conducted that
10 strip search and share the instruction that was given.
11 I personally had a conversation of all the inmates who
12 were being taken into custody with the warden of the
13 Federal Correctional Institute in Phoenix. He was
14 physically on-site with his staff to take custody of
15 that individual. I personally had a conversation with
16 him to tell him that we never obtained our second
17 handcuff key back. We discussed the physical
18 measures -- we have a device on-site at each of our
19 prisons. It's called a BOSS chair, acronym B-O-S-S,
20 Body Ori fi ce Scanning System -- I believe is what that
21 stands for -- and it is intended to detect secreted or
22 metal devices that are in a body ori fi ce.

23 Basically, it was decided because of the
24 physical location of that device, we would have to move
25 the inmates into a different area of the prison complex

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1 to place them on that. In consult with the warden of
2 FCI, he said, "No problem. As soon as we get them on
3 FCI Phoenix, we will scan them and x-ray them."

4 So I personally briefed him about the
5 missing handcuff key before he left. It was decided
6 that they would take them to FCI Phoenix and do the
7 scan. He called me later that night to tell me that
8 they hadn't recovered the handcuff key and it was his
9 belief at that time -- I have not spoken with him
10 since -- that he thinks that the inmate might have
11 secreted it in a body orifice, and subsequently, it was
12 recovered, I believe, underneath one of the inmates
13 feet.

14 MR. GUENTHER: But standard, there would --
15 that when you have an exchange of control on an inmate,
16 that the entity taking custody is the one that does the
17 necessary searching?

18 MR. HOOD: Yes, sir. In my experience,
19 that is exactly the approach.

20 MR. BURKE: Colonel, one final question.
21 Prior to this hearing, I believe you made commentary
22 that there might appear inaccuracy in the chron file
23 with regards to whether the two inmates were in a line
24 of sight at some point.

25 MR. BEASLEY: In one of the logs, there

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1 indicates a sniper saw subjects one and two. The only
2 time that this ever came up was that a DOC observer,

3 sniper observer team, indicated that they thought they
4 saw two people, the keyword there, and it made a
5 description. And, in fact, that was a
6 misidentification because they described the Inmate Coy
7 as shaving his mustache, and that in fact was not the
8 case.

9 MR. BURKE: Any other questions for this
10 panel?

11 I want to thank all four of you for the
12 tremendous effort you put into this and for your
13 organization and especially Maricopa County Sheriff's
14 Office and the FBI, since you are separate
15 jurisdictions, that stood up and participated fully in
16 this. We greatly appreciate your effort on behalf of
17 the State of Arizona.

18 (The hearing was at recess from 10:50 a.m.
19 to 11:07 a.m.)

20 MR. BURKE: We asked Warden Gaspar from the
21 Lewis facility to speak before the panel today. The
22 warden had already -- during the first day of hearings
23 of the panel, we had also had a tour of the Lewis
24 facility and the tower, which was conducted and
25 narrated by the warden, and we have asked him to return

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1 today to provide his comments with regards to that,
2 also, some of the background with regards to the Lewis
3 facility and to be open to questions on the incident
4 that happened that morning to the warden.

5 I appreciate your presence here today.

6 WARDEN GASPAR: Thank you. I don't have a
7 whiteboard here today. May I tape off on the wall
8 here?

9 MR. BURKE: Absolutely.

10 WARDEN GASPAR: Good morning. My name is
11 Bill Gaspar, and I am the warden at Lewis, and I'm
12 going to give you a presentation of some information
13 regarding the Lewis complex. This particular display
14 here is of the Lewis complex with the top being in the
15 northerly direction and of course easterly this
16 direction, west this way.

17 There are six units at the Lewis complex.
18 The entire eastern side three units are dormitory-style
19 housing, and we house level two and level three in our
20 custody levels. That's medium and low custody.

21 The left side are all cell block-style
22 housing and they are two-person cells, we house in the
23 Morey unit. We have our protective segregation, which
24 is multiple custody -- and I'll get into each of these
25 in a little more detail. Level-four, high custody unit

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1 in a high custody unit that's currently housing low
2 custody, and I'll explain in terms of each unit's
3 specific information.

4 Stiner unit, which was the first to open in
5 1998, is a dormitory-style housing, currently houses
6 levels two and three. One-half of it is a level-two
7 facility; one-half is a level-three facility. It was
8 designed for 800 inmates. The current capacity after

9 some additional double bunking is 904 inmates.

10 The second to open was the Morey unit,
11 January of '99. It is this unit here on the map, the
12 cell block style. Currently, it houses our protective
13 segregation inmates and houses levels two, three and
14 four. It was designed for 800 inmates. It has been
15 expanded by 40, by taking one-half of the detention
16 unit that is in that facility and converting it to high
17 custody level-four housing, so it has 840 capacity.

18 The third to open was Barchley in September
19 of '99. Barchley is a level-three, medium custody
20 dormitory-style housing designed for 800 inmates. It
21 is our most significantly double bunked in our dorm
22 areas. It has 1,008, is its current capacity.

23 The next to open was Bachman in May of
24 2000. It's, again, a dormitory-style, level-two low
25 custody, currently houses about half of its population

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1 as DUI inmates, the other half level-two low custody.
2 Designed for 600, currently houses 600.

3 The next was Buckley in April 2001.
4 Buckley is a level-four high/medium custody cell block
5 housing designed for 800, current capacity 800.

6 The last to open was Rast, May of 2003. It
7 has got a capacity of 350. It's designed as a high
8 custody. It currently houses level-two low custody,
9 and its current capacity is still 350. You can see
10 that our overall design capacity, 4,150. Our current
11 capacity, 4,502. The count as of yesterday evening is

12 4, 535.

13 Detention unit design capacity, we have
14 three detention units. One is found on the Bachman
15 unit designed for 80 and still has 80 beds. One is on
16 the Stiner unit designed for 80. We now have 79 beds
17 there. One of those cells was converted into a
18 special-use cell for inmates requiring any kind of
19 progressive behavioral control with restraint apparatus
20 for psychological reasons.

21 And the Morey detention unit is in the
22 Morey unit. It was designed for 80, and as I mentioned
23 earlier, this additional 40 came at the expense of 40
24 detention beds.

25 Specific information about these units,

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1 again, very quickly, Bachman, level-two dormitory, half
2 DUI currently and a half low custody. Barchley,
3 level-three medium custody, a thousand eight capacity;
4 Stiner, mixed level three here, level two here. That
5 presents a few challenges, you have mixed custodies.

6 And in managing those custodies, you must
7 keep them separate. So we have to manage so that we
8 have no crossover in any of the services; whether it be
9 service or program, we keep the level-two inmates
10 separate from the level-three inmates.

11 Morey perhaps is our most challenging of
12 our units. Three custody levels. It is protective
13 segregation. It is the largest protective segregation
14 population in our system. We have some protective

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15 segregation high custody inmates in the Eyman complex,
16 but otherwise, if they are at a level four, three or
17 two, they are housed at the Morey unit.

18 So we have three custodies that we must
19 manage separately, complicating the Morey management
20 even more. It is a mixture of inmates who are victims,
21 inmates who are predators, inmates who have been
22 validated as security threat, group members who have
23 subsequently debriefed, in a sense, disavowed their
24 membership, and any activity related to prison gangs.
25 And as our policy with our protective custody inmates

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1 is to debrief inmates. To successfully debrief can
2 reduce to custody to level four, and that level four
3 setting is at the Morey unit, and today, we probably
4 have 10 to 12 of those inmates in that unit.

5 We have numerous inmates in there who have
6 significant numbers of inmates they have to be kept
7 separate from, and it's a significant challenge that
8 requires us, whether they be going to eat, going to an
9 educational program, turning out for a work program,
10 going to a medical provider line, that we have to be
11 cognizant to who those inmates are on those programs
12 and those lines and be sure that no two of them who
13 can't be housed together have access to each other
14 during that activity.

15 It is a very significant challenge.
16 Essentially what it means to us and how we have
17 attempted to organize this is, if you look at a

18 cell block, it is an H-style configuration. One leg of
19 that H houses 100 inmates; two 50-person pods. That
20 leg of inmates have to be inmates that can mix so that
21 when we turn them out for exercise or recreation or for
22 a meal, that we can safely turn that group of 100
23 together without concern about them having some prior
24 conflict that has caused us to not let them get with
25 each other.

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1 What that means is that on each side of
2 this prison, you have one leg of an H, a second one in
3 each building, so there's two -- four groups here who
4 have to be managed distinctly separate.

5 On the other side of Morey, you have the
6 same thing; these two groups in each building, and then
7 you have half of the detention unit as well. So now
8 you have five groups that must be managed separate from
9 each other. I share that with you because it is a
10 challenge to the unit. For example, a meal turnout of
11 large numbers of inmates has to be done on this side in
12 at least five parts. So you turn out a group, and they
13 have to be finished with their meal and put back away
14 in cells so that you can't have any crossing of the
15 groups.

16 Now, those five turnouts take an awful lot
17 of time, and at the same time those are going on, you
18 have four turnouts happening over here on this side,
19 which also must be managed separately. So meals is an
20 example. It takes more of the day than we would like

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21 them to take, but to do it safely, it must be done that
22 way. I'll move on and get back to some of those
23 challenges a little later.

24 Buckley unit is 800 beds, and it is all
25 level-four high/medium custody, and they have some

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1 don't-house-with-us issues as well, but those are
2 separated by half a yard. Each of these facilities are
3 split in half, so inmates who live in these two housing
4 units can mix, as with the case of the other two, but
5 we can't mix from side to side of that unit.

6 The Rast unit opened just in May of 2003,
7 and it was opened -- it was sort of opened because we
8 had a need for beds. Obviously, we are short of beds
9 in our system.

10 And we have been challenged with staffing
11 with a high number of vacancies at the Lewis prison
12 complex. We decided to open Rast -- this is level two,
13 which requires fewer officers to supervise at the
14 level-two low custody inmate than a level-four inmate.
15 So we utilized the existing facility to take a little
16 of the pressure off of level two and activated this in
17 May of 2003 with fewer staff than you would have,
18 again, as a level four and also used those inmates to
19 help finish out some of the final fence work and so
20 forth that would need to be done at this facility
21 before it would be opened as a level four.

22 I want to talk a little bit about some of
23 the operational challenges at the prison. One of

24 those, I have already covered slightly, managing
25 multiple custodies, and it is specifically a challenge,

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1 as I said, Stiner, of the two custodies. It is a
2 challenge at Buckley to keep separate; that we have to
3 do from side to side. It is a challenge at Morey. As
4 I have already described in some detail, so many people
5 even within custodies -- for example, all the level
6 twos that live in Morey can't be housed together. Some
7 of the other level twos have to be kept separate from
8 other level twos, as in the case of every other
9 custody.

10 A significant challenge at the Lewis prison
11 is that we at this complex are a court or a prison.
12 There are four courts or prisons: Lewis, Tucson,
13 Florence and Eyman. They are all large prison
14 complexes. The corridor status is such that you accept
15 and house inmates who have high mental health needs and
16 high medical needs.

17 At the Lewis complex, for example, as we
18 stand here, sit here today, we have about 900 inmates
19 who are mental health three score, which is a high
20 score on our mental health scale, meaning --
21 representing generally that they are on some type of
22 medication, that some of it is a watch-swallowed daily
23 dose. Some of it is what we refer to as a keep-on
24 person where they receive a week's worth of medication
25 at a time that they can carry on their person.

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1 This challenge is one that is difficult, in
2 that we have had difficulties at the prison attracting
3 and retaining mental health professionals. We have a
4 high number of needs and insufficient resources to
5 provide the service that is really necessary. Having a
6 full-time psychiatrist there to do the prescription
7 medications has been a challenge. We haven't had a
8 full-time psychiatrist there for some time. So that's
9 a significant challenge.

10 Now, managing mental health inmates is a
11 challenge in another way. The staff at the Lewis
12 complex is relatively junior, given the newness of the
13 complex. We see that the Stiner unit was the first to
14 open in '98 and the last to open was Rast in 2003.

15 Today, we have approximately 200
16 correctional officer vacancies out of a thousand and 29
17 positions. Of the 800-plus positions that are filled
18 today, 50 percent of those officers have two years or
19 less of service, and that's inclusive of their seven
20 weeks at the correctional academy.

21 So you can see the challenge that we face
22 with officers who have relatively short experience, and
23 I offer it here because the management of mental health
24 inmates requires people with some skill and some
25 understanding, and frankly, we don't offer a whole lot

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1 of training. We do crisis intervention training with

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2 them, but they are not trained mental health
3 professionals by any stretch of the imagination, nor
4 are they intended to be.

5 The other thing that we have as a corridor
6 status is medical, high medical needs. I will be at
7 the Lewis complex two years next month. Our staffing
8 situation right now is the best it's been in the two
9 years I have been there. For most of the two-year
10 period, our vacancies in correctional officers was such
11 that if every employee body reported to work as
12 scheduled every day without fail for illness, any
13 personal leave, we would not have sufficient officers
14 to reach our minimum staffing requirement. Best-case
15 scenario, they all show up, we can't meet the minimum
16 staffing requirement. Today, we can. Today, we are
17 slightly over the bubble, and we have only gotten there
18 in the past couple of months to where we are at a point
19 to where if everyone does come to work, that we do have
20 enough to meet the minimal level.

21 Now, meeting the minimum level is not a
22 desirable position to be in. It's the least that we
23 can operate with, but obviously, it's not desirable
24 when you have significant pressure on your resources,
25 medical.

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1 Not a day passes at Lewis where you don't
2 have one or more unscheduled medical runs to a local
3 hospital. There are days when you have inmates in two
4 or three hospitals around the city. That means two

5 inmates that aren't on your post chart that you didn't
6 schedule for, you couldn't anticipate, even though we
7 attempt to anticipate beyond our needs. That's two
8 around the clock, 24 hours, in every location where we
9 do not have a secure setting. The only secure setting
10 we have is the Maricopa County Hospital, and we use it.
11 We use it whenever we can. But sometimes the needs of
12 the -- the medical need requires they be placed in a
13 different hospital. So this becomes a significant
14 drain.

15 On the extreme side, the most extreme side,
16 there have been occasions where we have had so many
17 inmates in hospitals, and staff in those hospitals was,
18 in essence, equal to the management of the management
19 needs of a small unit that we have to then accommodate
20 and plan for, and you plan for that obviously with
21 overtime for your correctional officers.

22 But being a corridor status has a couple of
23 very significant impacts on this prison: the mental
24 health needs; the management of those inmates by the
25 staff, relatively junior staff; the medical needs and

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1 that is the medical need of so many trips to the
2 hospital, so many man-hours outside of the prison
3 devoted to relatively few inmates.

4 Staff retention. Years ago, a bonus was
5 offered, the \$5100 bonus was offered and Lewis got
6 well. And by "well," I mean it became a point to where
7 all the positions were filled. And I was at Perryville

8 at the time, and I remember visiting the academy at
9 Tucson to talk to cadets who were about to graduate
10 about coming to work at Lewis -- I mean, coming to work
11 at Perryville because Lewis positions were filled.

12 Now, as those people who signed a two-year
13 agreement -- two-year commitment to Lewis with a bonus,
14 as the two years rolled near, they began to disappear,
15 and ultimately, we were back where we started nearly.
16 We were at a 35-plus percent vacancy when I got there,
17 and it didn't get well for quite some time. It is
18 still not well, but it's much better.

19 So we reimplemented the bonus, and again,
20 we have picked up our recruitment. We have since -- we
21 are offering the \$100 per paycheck to sustain that so
22 we don't have the same experience of having these
23 attracted, when the two years is over, they depart us
24 for greener pastures and more money.

25 So as I said earlier, our junior status

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1 nature is still significant, 50 percent less than two
2 years of experience, and that means when you take a
3 unit shift, and assuming you have 20 people there that
4 you need for that shift, you can anticipate that more
5 than half of those are going to be people that have
6 less than two years' experience, and oftentimes, it's
7 even a little more than that; it's closer to
8 two-thirds.

9 The impact on the promotional process is
10 really important at Lewis. Junior staff need

11 leadership. They need seasoned leadership. Lewis
12 being somewhat remote, there isn't -- there isn't a lot
13 of interest from other locations for people to promote
14 to Lewis. Lewis, as well as everyone else who is
15 eligible, may compete. People who are successful in
16 that process then get to identify places they will go
17 to work. Most of them want to go to work where they
18 are now and not uproot families and not move and so
19 forth. That often leaves us with people at Lewis
20 willing to promote to Lewis and not many others from
21 around the state that would come to us and perhaps
22 bring us some more experience.

23 As an example, an officer with two years of
24 experience is eligible to compete for sergeant. When
25 we promote for sergeants at Lewis, the largest pool we

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1 promote are those junior officers who meet the minimum
2 requirement because the others who have competed and
3 perhaps did better on the competition and were higher
4 on the promotional list opt to stay where they are.
5 And we eventually get to the point where we look down
6 at who is willing to come to Lewis because of the
7 distance of commute or relocation, and it becomes some
8 of those who are already there. The point being that
9 junior staff are now being led by other junior staff
10 who have simply promoted into a responsibility for a
11 supervisor, and that's -- that requires an awful lot of
12 our attention, and the result is, the leadership
13 doesn't have a strong experience base.

14 That pretty much concludes, I think, the
15 issues, unless you have some specific questions to
16 these units. If you do, I'd be happy to answer them.

17 MR. BURKE: Grant?

18 MR. WOODS: No.

19 MR. GUENTHER: Let me just ask a relative
20 question which came up after the fact. At the last
21 time we had this briefing or similar briefing, as far
22 as the tower at Morey is concerned, what is the written
23 policy of access, ingress and egress?

24 WARDEN GASPAR: Well, to all the towers,
25 you have to identify the person who is coming in. You

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1 should have a hundred percent identification of who is
2 coming in to that tower before you allow them in. Now,
3 it has since changed. We have modified our procedure
4 to tighten it even more, to make it more restrictive.
5 But at the time, it is the officer has to positively
6 identify the person who is attempting access before
7 they allow access.

8 MR. GUENTHER: And as far as -- as far as
9 operation of the lock system, is there a written policy
10 concerning the different ramifications to the
11 sallyport, the bottom level door, the stairwell door
12 and/or the access to the number of doors?

13 WARDEN GASPAR: Yes. At the time of the
14 incident, there was not specific language about the
15 accessing of the stairwell door. It has since been
16 added in great detail, but essentially what happens is

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17 that an employee in the middle tower who needs to go to
18 the first ground level, either to identify someone to
19 come in or to use the facilities, has to place that
20 door on access. They hit a button that allows them to
21 go down to the door, down the stairway, hit the button
22 so that they can get entrance into the area they need
23 to be in and lock it behind them. And on the panel at
24 the bottom floor, they can then put it back on the
25 get-off access so it is now secure.

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1 But there continues to be a need in some
2 units, our low custody units. The tower is staffed by
3 one person, so any movement of that nature, they have
4 to put it on access solely for the purpose of going
5 down and entering the area and taking it off access.

6 At the time of this incident, that was the
7 direction, that it wasn't specifically written about
8 the access, not having it on access. On access means
9 someone could approach it, push the button, and that
10 pops the lock as opposed to push the button, which
11 calls the officer who then accesses the lock.

12 MR. GUENTHER: With -- relative to the
13 attempts to incapacitate inmates during struggles,
14 obviously all officers on all units carry some kind of
15 a pepper spray.

16 WARDEN GASPAR: A chemical agent, yes. All
17 carry it.

18 MR. GUENTHER: And is it all the same --

19 WARDEN GASPAR: Yes.

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20 MR. GUENTHER: -- or do different officers
21 use different kinds?

22 WARDEN GASPAR: Yes, they all use the same.

23 MR. GUENTHER: Have you ever had -- I mean,
24 basically that's their only protection that they have
25 in order to subdue or help to subdue an inmate?

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1 WARDEN GASPAR: That's correct.

2 MR. GUENTHER: Has it been effective? I
3 understand that it affects some people different than
4 other people.

5 WARDEN GASPAR: It is generally effective,
6 and there are still inmates who are hit with that spray
7 who sustain a little struggle and a little lasting
8 power more than some others, but generally, it is
9 effective. It doesn't bring someone to their knees
10 immediately. If they are engaged in a struggle of
11 sorts, they can continue that for a bit before they are
12 overcome with it.

13 MR. GUENTHER: What is the effective range
14 of that canister, I guess?

15 WARDEN GASPAR: I could get you from here,
16 probably. I wouldn't use it much farther than that.
17 I'd like to be close enough to make sure I can hit you
18 right on target with the full blast.

19 MR. GUENTHER: Do you have any indication
20 as to why either it was not effective on inmate Coy, or
21 was it used too far away? Is there any indication on
22 why he was able to withstand that spray.

23 WARDEN GASPAR: I have no specific
24 information, but it may have been, where did the spray
25 hit him? You know, you want to target the head. It

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1 can be sprayed -- you know, if someone was sprayed in
2 this room and you weren't in the immediate area, you
3 would be able to exist until it sort of permeates the
4 air, and then, again, you begin with your burning eyes
5 and so forth. But Coy could have been hit with this,
6 could have been somewhat impaired, but when he was able
7 to get to the tower, then he would have access to water
8 in order to try to help himself in clearing the eyes or
9 whatever.

10 MR. GUENTHER: And related to that, there
11 seems to be an indication that a couple of officers
12 responding to the IMS that was issued from the dining
13 hall, that they happened to be right at the corner of
14 the tower at one point in time, and it happened to be
15 the point in time when Inmate Wassenaar was firing the
16 AR-15 through the A gate at the base of the tower and
17 that they tried to use this spray on Wassenaar and were
18 unsuccessful. Do you recall anything about that?

19 WARDEN GASPAR: It's my understanding that
20 if you -- for logistical purposes, we call one side of
21 the yard the blue side and one the red side.
22 Wassenaar, when he came out of the kitchen to come to
23 the tower, he was on the red side, and that's where he
24 entered the tower from. Coy come out on the blue side.

25 The spray you are referring to, it's my

1 understanding that we had officers who responded from
2 the red side and the activity was near the blue side,
3 and the attempt was made to spray from that red side
4 carefully because they were trying to have cover of the
5 corner of the building, and it would have been the
6 distance of those fence lines, roughly. So, you know,
7 that's several yards, and I suspect that, one, they may
8 not have been totally accurate because they were trying
9 to be careful from a guy with a weapon, and at the same
10 time, trying to spray, and so I suspect that we didn't
11 have a good target given the nature of the concern
12 there. An effort was made, but it didn't impact.

13 MR. GUENTHER: And as warden, you are still
14 basically satisfied that the spray that your officers
15 are using is effective?

16 WARDEN GASPAR: Yes, it is. I mean, it has
17 been effective, and I think it will continue to be
18 effective. We use it most frequently to break up
19 fights. And sometimes it has to be the second spray
20 before they finally stop their scuffle.

21 MR. GUENTHER: Okay. There has been
22 considerable testimony about the staffing of the towers
23 and whether or not it is common practice to put two
24 inexperienced people on the same shift in the tower.
25 What is your sense on that?

1 WARDEN GASPAR: The assignment of the post
2 is the responsibility of the shift supervisors. And
3 that's a sergeant and/or lieutenant, and they have to
4 look at the resources available to them --
5 experience/inexperience, competencies; regardless of
6 experience, who's qualified with the weapon -- and make
7 those assignments to a variety of posts.

8 In this case, I think 18 or 19 posts that
9 evening. And so the decision was made to place two
10 officers, one who was new as of June 30th, the other
11 was hired on June 30th, but he had past experience, a
12 couple of years, and was a reinstate, which we don't
13 treat as a brand-new employee because they have some
14 training and experience. So that evening, as an
15 example, of the 20 people on shift, 14 of them had been
16 hired in '03. Of the 2 in the tower, 8 of that 14 were
17 more junior than they are. The six who had experience
18 beyond '03 were placed in very key responsibilities
19 around the yard: our main control, the detention unit
20 control, the lead-yard officers who are responders to
21 all kinds of crises during a shift.

22 In looking at it, it would be hard to be
23 critical of how they chose to assign, given what was
24 there, and that's fairly typical of a shift; that you
25 are going to have a high level of junior staff and

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1 relatively few more senior staff, and you have to look
2 at their competencies, as well as their experience.

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3 MR. GUENTHER: How long has it been a
4 common practice to only assign one uniformed officer to
5 the kitchen?

6 WARDEN GASPAR: For as long as I can
7 recall. We have a sergeant that's also assigned, but
8 the sergeant comes into work a little later than this
9 incident began and is responsible for sort of an
10 organizational management of the kitchen security. So
11 had it been 7:00 o'clock in the morning, we would have
12 likely had a sergeant on-site along with the
13 correctional officer, but the one correctional officer
14 in the kitchen is the standard staffing.

15 MR. GUENTHER: Okay. But the shift
16 supervisor has a lot of responsibility in determining
17 how well the kitchens operated or how the tower is
18 operated?

19 WARDEN GASPAR: Yes.

20 MR. GUENTHER: There is quite a bit of
21 discretion then?

22 WARDEN GASPAR: Well, the shift supervisor
23 is responsible for ensuring that our procedures are
24 followed and also for ensuring that the staff assigned
25 understand their responsibilities.

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1 MR. GUENTHER: Okay. That's all I have
2 right now.

3 MR. RIVELAND: It seems in reading the
4 criminal investigation, there was some statements, if I
5 recall correctly, that the inmates had radios in the

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6 tower that they did intercept some conversation
7 particularly early on; is that correct? Do you recall?

8 WARDEN GASPAR: I'm not sure I understand
9 your question.

10 MR. RIVELAND: During at least the first
11 couple of days, the inmates had radios that they had
12 confiscated from the officers when they were there and
13 that there was radio traffic going on particularly
14 early in the morning that they then were able to
15 intercept or listen and monitor.

16 WARDEN GASPAR: The inmates had access to a
17 radio, hand-held radio throughout the duration of this
18 incident, and when they -- initial -- in the initial
19 hours of this incident, they had access to a radio, and
20 they could be listening to any radio traffic on that
21 unit by simply being on the right channel, which it
22 would have already been on because it was for that
23 unit. So they could hear radio traffic in the first
24 minutes and hours following. But we soon stopped using
25 that channel on that yard as soon as we got together,

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1 organized. When we responded and developed some of our
2 initial strategies was to take our communications off
3 that channel, and so that channel began to be used, you
4 know, by the negotiator when they couldn't reach the
5 hostage takers on telephone.

6 MR. RIVELAND: Are you acquainted with
7 Endow (phonetic) technology?

8 WARDEN GASPAR: Somewhat.

9 MR. RIVELAND: Am I correct that your staff
10 did not have that available to you?

11 WARDEN GASPAR: We did not have that
12 available.

13 MR. RIVELAND: Is that something that you
14 think would have been valuable during that time?

15 WARDEN GASPAR: Yes. I think it would have
16 been had we had it. We would have been aware earlier
17 on that we had a problem in the kitchen and may have
18 been able to respond to that problem and avert the
19 entire tower situation.

20 MR. RIVELAND: You were talking your
21 reextension and recruitment problems, and that's
22 really -- I mean, anywhere from a 10 percent is
23 normally considered an extreme situation in terms of
24 staff vacancies, and when you have 20, 25 and 30
25 percent, that's really alarming. Does that result in a

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1 great deal of overtime in order to meet minimal
2 staffing?

3 WARDEN GASPAR: Definitely a great deal of
4 overtime.

5 MR. RIVELAND: So if I understand correctly
6 from some of the testimony we heard from some of the
7 staff the other day is many have to drive a hundred
8 miles to work each day, then may be doing extra time on
9 the job at the same time.

10 WARDEN GASPAR: That's correct.

11 MR. RIVELAND: And that commuting, that's a

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12 very tiring kind of scenario for the staff.

13 WARDEN GASPAR: And because of that, we
14 restrict how many extra hours per week they can work,
15 and that's been in place in the agency for several
16 years to restrict that because of the fatigue factor
17 and officer's safety, not just on the job, but on the
18 ride to and from.

19 MR. RIVELAND: Can you tell me -- you
20 talked about the minimum requirements to sergeant. If
21 I were a correctional officer, how much time would I
22 need as a CO in order to be eligible?

23 WARDEN GASPAR: Two years.

24 MR. RIVELAND: Two years. So I could have
25 a two-year-and-one-month sergeant supervising a

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1 six-month CO --

2 WARDEN GASPAR: Yes.

3 MR. RIVELAND: -- is the way it sounds to
4 me.

5 WARDEN GASPAR: We do have that. That's
6 fairly common.

7 MR. RIVELAND: And if I heard you
8 correctly, you talked about the bonuses and that they
9 were effective in the short-term but not in the
10 long-term. What is the solution for that? Is it just
11 simply to higher regular pay that would have greater
12 impact on the long-term?

13 WARDEN GASPAR: Yes, that's exactly it.
14 What happens to us is that our officers are paid

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15 significantly less than the Maricopa County and Pima
16 County, which are the primary areas where we get our
17 employees from in the state, and we train them. We
18 give them experience. They see an opportunity to leave
19 for more pay, and the counties they go to often see
20 them as somebody that's great, that's experienced,
21 that's someone who has already been trained, and that's
22 a resource for them.

23 What has to happen is we have to be the
24 ones that those county people want to come to as a
25 state agency. We need to have that status that we have

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1 never had since -- I have been with the Department of
2 Corrections now since '74. We have never had that
3 status. It has always been a struggle. We train; we
4 lose. So we need to be the king in the salary scale
5 so that we are the attractive one to come to, and then
6 we have some selection. We can choose from people,
7 rather than we recruit and essentially to pass minimum
8 standards on our evaluations and you get in. We could
9 be a little more selective, perhaps, but we need to
10 have that status, and it's a huge difference. That's
11 the thing that would solve, not just for Lewis, those
12 other locations in the state that are struggling with
13 staffing, many locations in the state. And to be
14 number one when it comes to salary would resolve that.

15 MR. RIVELAND: And probably diminish
16 overtime cost at the same time.

17 WARDEN GASPAR: Oh. It would be nearly

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18 eliminated. It would be rare.

19 MR. RIVELAND: Thank you.

20 MR. BURKE: Ms. Morrison?

21 MS. MORRISON: Is there a reason there were
22 no cameras in the kitchen?

23 WARDEN GASPAR: There just have not been
24 any put in. There was none in the original plan so
25 there were none there. In the design, it was not

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1 included. I can tell you that we are doing camera
2 review. You know, the kitchen is one location, and I
3 think it needs to be understood that there are lots of
4 locations where something like this could occur; that
5 is, you can go into any classroom at that prison and
6 you will have 15 to 25 inmates sitting there with a
7 teacher and an occasional check, an outwardly check by
8 a correctional officer.

9 So the kitchen is not the only place where
10 you have inmates in the number that we would have there
11 with someone who is responsible for oversight who has a
12 radio and a telephone available to them. So we have
13 numerous locations where the supervision, the
14 staff-to-inmate ratio is problematic if you have acting
15 out by inmates, because that's where they can overpower
16 the staff relatively quickly.

17 MS. MORRISON: Last week we heard some
18 testimony about the radios malfunctioning, not working,
19 discharging while the officers were on post. Can you
20 comment on that?

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21 WARDEN GASPAR: I would characterize that
22 as a unit issue. There are enough radios and batteries
23 available, that if they are properly exchanged and
24 charged, to meet the needs of every employee that comes
25 on the unit to carry a radio. We have experimented

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1 with a battery in the last year and a half that is a
2 longer-life battery. It's more expensive, and in a
3 couple of units we are testing those. But it's
4 something that gives us a little more staying power;
5 otherwise, when you are on an eight-hour shift, if I
6 take your radio on shift and it's not fresh, the
7 battery is not fresh, I may have a problem during that
8 shift with the use of that radio and have to exchange
9 the battery during shift. Proper use and proper
10 charging of them, though, will generally resolve that
11 problem.

12 MS. MORRISON: I believe with the testimony
13 last week that with these new batteries, sometimes the
14 battery will discharge in the middle of a shift and the
15 officer wasn't aware of it and would have a battery
16 that was not working and a radio that was not working
17 and wouldn't know it. Is that possible?

18 WARDEN GASPAR: I wouldn't call it
19 impossible, but I can't imagine you not knowing that
20 your battery is not working, because you are using your
21 radios with great frequency, and, you know, it gives
22 you a warning as you are losing charge. You have a
23 little audible that your battery is weakening, and it

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24 is time to get a fresh battery.

25 MS. MORRISON: Also, last week we also

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1 heard some information and read some in the draft of
2 police reports that some of your officers didn't know
3 whether or not this was an IMS, simulated IMS, or
4 whether it was actually real.

5 WARDEN GASPAR: We test our officers in
6 various locations around the unit to make sure that
7 they are adhering to our procedures. And those tests
8 are an attempt to test their following procedures. We
9 attempt to leave through our sallyports without
10 providing identification, and they pass or they fail.
11 We test various locations, and we do that to try to
12 stay sharp and keep people vigilant on what their
13 duties are.

14 Now, I have heard in this case where one of
15 the officers thought that all of this might be a test.
16 If that had been an original thought, that is a thought
17 at the time it began. Then the response would have
18 been we need to pass this test so we need to make the
19 proper check. And the purpose of those tests are to
20 keep them vigilant, and we do those with some frequency
21 in various locations to ensure that people understand
22 and follow. And if we have a failure, then it's a
23 corrective action; you're training. You are describing
24 what needs to happen and why. So it is -- it is to
25 help some people, and, in particular, junior staff,

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1 stay sharp and understand the importance. Success over
2 a period of time can bring complacency if we are not
3 careful, so we try not to let them become complacent.

4 MS. MORRISON: Thank you.

5 MR. BURKE: Mr. Cohen?

6 MR. COHEN: I don't have any questions.

7 MR. BURKE: Warden, I have a few questions.
8 One is that I think what people are having a hard time
9 grasping -- maybe you can walk us through this. I
10 believe you sort of touched upon this already, but is
11 that Coy specifically is a sexual predator, and he was
12 authorized to work with a nonuniformed female staff in
13 a kitchen with one officer. And I understand your
14 staff shortages, but could you give some commentary on
15 how a situation develops where someone like Coy is
16 allowed to be in that kind of situation with a
17 nonuniformed female staff?

18 WARDEN GASPAR: I'll try. We have
19 inmates -- we have many locations in our units where
20 inmates are either at work or participate in
21 programming. In this particular unit, the challenge is
22 a little more significant. That is, that every inmate
23 that's working in that kitchen has to be cleared to be
24 able to be with each other. So we have inmates coming
25 from various locations in this kitchen because, number

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1 one, they have to be able to be there and not pose a

2 threat to somebody that they've had a problem with.

3 Number two, we look at our job assignments.

4 There are -- there are attempts made to make sure that
5 you are employing people who are either most qualified
6 or most deserving based upon custody. On this half of
7 the prison here and most of this half, you have got
8 inmates that are level three and level four. He was a
9 level-three inmate, and so the level-three inmates are
10 cleared to work in this kitchen; just as in this
11 prison, they are all level fours. So the entire
12 kitchen is staffed by inmates who are level fours.

13 We have not -- we don't have written
14 directive -- written direction that stipulates that
15 inmates with specific crimes on the inside of the
16 prison are prohibited from certain work assignments.
17 We don't have that written direction that says if you
18 are a sex offender that you can't be employed in a
19 particular area.

20 MR. BURKE: Can I ask you if we should.

21 WARDEN GASPAR: We have to be careful not
22 to paint ourselves into such a box that we cause
23 ourselves to not have the resources available that we
24 need. I can tell you certainly in response to this, I
25 have directed all of the unit administrators to take a

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1 look at who they have working in that location on that
2 shift that starts so early in the morning and to
3 identify people who have an assault history and review
4 them very carefully and remove them, unless there is an

5 awful high level of confidence at the time and these
6 histories was so far in history that they don't believe
7 we have an immediate threat.

8 So in response to this, I have asked them
9 to take a look at all of these early morning turn-out
10 assignments, early morning, because, you know, it's the
11 time that we are still on our graveyard shift. That's
12 where our numbers are the slimmest in terms of post
13 that we have coverage for. So just as a strategy to
14 try to avoid being faced with a similar dilemma, that
15 direction has been provided, but it is not a written
16 direction at the agency level at this point.

17 MR. BURKE: Wassenaar at one point had use
18 of an electric razor. Do you have any information at
19 this point as to how he got ahold of that?

20 WARDEN GASPAR: I do not.

21 MR. BURKE: With regards to the tower, the
22 prescription drugs for the unit were kept in the tower.
23 Now, after this incident and what occurred, is that
24 a -- continued to be a container for the --

25 WARDEN GASPAR: Absolutely not. That place

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1 is very stark. There's only the tower function that
2 comes out of the tower. Now, I can give you a little
3 background to the prescription drugs. This prison was
4 master planned, and on no unit except Rast, which was
5 originally conceived to be a minors unit where this
6 group was going to have to be kept separate from all of
7 the adults -- Rast has a medical facility on-site.

8 None of the others do. So there is no unit location
9 for health-related functions.

10 This building here in the middle and what
11 is represented as a green area -- but if you have been
12 to Lewis, you know there is not much green out there.
13 This large building here is a complex centralized
14 medical facility. In theory, this was going to be that
15 inmates requiring services were all to be brought to
16 that location. In practice, it didn't last long until
17 it was realized that that was not even the slightest
18 bit feasible.

19 So what we have done, and in the nearly two
20 years I have been there, we have gone onto the units --
21 and you see these rectangular buildings on each unit?
22 Those are industry buildings, and we have taken a piece
23 of that building and created a satellite health area to
24 try to have some health services on the unit so that
25 inmates who have any need to see a nurse or a doctor

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1 don't have to be taken to a central facility, which is
2 very cumbersome, and you couldn't meet the needs of the
3 inmates in a timely fashion.

4 But because we have no facility on the unit
5 and no central facility within the unit, the tower
6 became a place to distribute medications, because from
7 that one point, you can distribute to each side of the
8 yard. It is evolution I wasn't there for, but I
9 understand having been there why it was selected,
10 because from one point, you could meet the needs of the

11 entire group. That's how it happened. It no longer
12 exists.

13 Now, we are doing two things. On the red
14 side of the yard, which is the side where the industry
15 building is where we have the satellite area now for
16 health, the inmates who live on that side are going to
17 that unit, that building, to receive medications. On
18 the blue side of the yard, there is no facility. We
19 have identified a location within the dining room of
20 the blue side. We have a secure observation point in
21 that room where an officer during a meal turnout is
22 secure, observes, and can respond or initiate an
23 emergency response if something happens, a breakup of
24 sorts.

25 We use that very location now for the blue

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1 side. We bring inmates in there a half a building at a
2 time, or whatever the small number can be, and the
3 pills are passed there for watch-swallow medications at
4 that blue side throughout our unit. So that's how we
5 have avoided using the tower. So now we go to multiple
6 locations. A little bit more cumbersome, but the next
7 step that we've already initiated is a pilot for
8 separating the keep-on person medications from the
9 watch-swallows.

10 So we are working to do those separately so
11 that the inmates who go to the satellite or to that
12 dining area are fewer, because that's just the
13 watch-swallows, and it's more efficient that way. We

14 have to be careful because the location we are using,
 15 being the dining facility, we have to fit it in our
 16 schedule so that it doesn't interfere with the feeding
 17 times, which are quite long hours of each day, three
 18 different feeding times. Nothing else, by the way, is
 19 in that tower. We have had some other things stored in
 20 the tower, and it's --

21 MR. BURKE: Cleared.

22 WARDEN GASPAR: -- it's cleared.

23 MR. BURKE: And Warden, how long have you
 24 been in corrections?

25 WARDEN GASPAR: Since September of 1974.

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1 MR. BURKE: Have you ever seen a situation
 2 or a setup like the Morey unit with regards to its
 3 custody levels? Because from your narrative today, the
 4 way I hear it is, this is just an administrative -- for
 5 you, an administrative mess what you have to go
 6 through, and that it would lead to situations like the
 7 situation we now have, which is a difficulty in
 8 providing security and management there.

9 WARDEN GASPAR: In my experience here or in
 10 the agency, this represents perhaps the most
 11 challenging unit that I have seen. I haven't seen them
 12 all and I haven't worked in them all; I have been in
 13 several different complexes, but it is because of the
 14 separation issues, because of the relative
 15 sophistication of inmates and the junior status of
 16 staff.

17 There are approximately 100 inmates in the
18 Morey unit alone serving a life sentence. And many of
19 them have been in prison for a long time, lots of
20 years. And they understand the system. They are
21 skillful in their ways in the prison. They are -- they
22 are manipulators. They are litigators. So, you know,
23 it's a tough -- it's a tough population to manage with
24 junior experience. It would be a tough population, a
25 challenge, with senior experience, as well, because

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1 they are a difficult population, and having so many
2 custodies in one location is a greater challenge.
3 When -- I'm keeping my fingers crossed to
4 this and I think it is going to occur; Kingman opens
5 soon, June, I believe. We hope. We believe that we
6 will be able to move the DUI's out of Bachman. That
7 will give us relief to move Rast level two into
8 level-two facilities and use Rast, which is built as
9 high custody, for the level fours that are now at
10 Morey. That will take some of that mixed pressure off
11 of Morey and share it, you know, with Rast so we will
12 have -- this will be a pure high custody. This will be
13 low and medium custody. This will be an improvement,
14 and we are looking for that happening in the next few
15 months.

16 MR. BURKE: Any other questions for the
17 warden?

18 Warden, thank you very much for your
19 presentation. Do you have a -- for the record, do you

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20 have a display that you have on the wall here for the
21 hearing in a form that we could include in the record?

22 WARDEN GASPAR: If I may have some time, I
23 can put it into a form and get it to you.

24 MR. BURKE: Sure. Absolutely.

25 MR. BURKE: We are going to break and

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1 reconvene at 2:00 o'clock at the Department of
2 Corrections where we'll hear from two correctional
3 officers who were involved in the incident on the 18th
4 of January. One of them is the female who was taken
5 hostage. That portion of the testimony will take place
6 in the Department of Corrections' administration
7 building, 1601 West Jefferson. You enter from the back
8 of the building. The media will be able to take an
9 audio feed only outside the fourth floor conference
10 room at the Department of Corrections. It is set up
11 and designed that way with the request of those
12 witnesses, and we are abiding by that. So that will
13 begin at 2:00 p.m. with the Department of Corrections.
14 Thank you.

15 (The hearing concluded at 12:10 p.m.)

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C E R T I F I C A T E

9 I HEREBY CERTIFY that the proceedings had upon the
10 foregoing hearing are contained in the shorthand record
11 made by me thereof, and that the foregoing 114 pages
12 constitute a full, true, and correct transcript of said
13 shorthand record; all done to the best of my skill and
14 ability.

15 DATED at Phoenix, Arizona this 19th day of
16 February, 2004.

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Marcella L. Daughtry, RPR
Certified Court Reporter #50623

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